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THE MANN-ELKINS ACT, AMENDING THE ACT TO REGULATE COMMERCE

SUMMARY

In its platform of 1908, upon which Mr. Taft was elected to the Presidency, the Republican party expressed its approval of the railroad rate law and of the vigorous manner in which it was being enforced, and recommended that it be further amended so as to permit railroads to make traffic agreements, which should preserve the principle of competition, and avoid the common control of competing railroad lines. It

also expressed itself as favorable to such national legislation and supervision as would prevent the future over-issue of stocks and bonds by interstate carriers. Taking his stand upon this platform, President Taft planned his policy for the regulation of interstate carriers. He advised at length with members of Congress, members of the Interstate Commerce Commission, and other departmental officials, and especially with his Attorney-General. As it became clear that he intended to make recommendations of a serious nature to Congress, conferences with railroad officers became frequent, doubtless at the suggestion of the railroad men themselves. In the annual message in December, the question was not touched upon, but was reserved for a special message on January 7, 1910. This message proved to be merely an outline of a bill already drawn by the Attorney-General, and about to be offered to both houses for their consideration.

The bill was introduced in both House and Senate and referred to the appropriate committees. In conformity with the pledges of the platform, it contained provisions for traffic agreements and for federal control of capitalization. The President's natural interest in judicial affairs had turned his attention to questions of procedure, and much of the bill was taken up with the creation of a new court. Other provisions, such as the right to suspend rate increases, doubtless came into the bill at the suggestion of the Interstate Commerce Commission and the various members of Congress with whom the President consulted.

With the committees of both houses the Attorney-General put himself into touch, and as a result of conferences, he re-wrote many sections of the measure. When it was finally in satisfactory form, it was reported by the Senate Committee on March 28 without

amendment, and without serious committee consideration. The House Committee amended it radically before reporting it on March 24. It was completely reconstructed in both houses and passed the House on May 10, the Senate on June 3. The Conference Committee gave it ten days' consideration, their report was promptly adopted by both houses, and it received the approval of the President on June 18.

Considering the radical character of the Mann-Elkins Act, it is somewhat surprising that it was debated and passed with so little demonstration on the part of either public or carriers. No such extraordinary campaign of publicity was undertaken by the railroads as was the case four years before, nor did the discussion of the question occupy the same space in the press or the same attention in public address. Several explanations suggest themselves. In the first place, the campaign of 1906 was fought over fundamental principles — the right of a Commission to make rates, the right of the courts to suspend orders of the Commission without a hearing, and the like. These questions were then settled once for all, and it was the task of the present Congress to strengthen the earlier act at its weak spots. The Act of 1910 takes some steps in advance, yet its main purpose is to make secure the positions occupied in 1906. Hence debate centered largely upon technical questions with which the public had little familiarity, and did not take that broad view of the problem of regulation which was so characteristic of the earlier struggle. That the railroads did not renew their policy of publicity was doubtless due to the effect which their campaign of 1905–06 produced. Through their propagandist literature, they had familiarized the public as never before with the railroad problem, but they found at

the end that their instruction had proved a boomerang, and that instead of convincing the public of the soundness of their reasoning, they had built up a resistless opposition, now for the first time fully aware of its needs and its opportunities. This time the railroad officials confined themselves to personal conferences with the President and party leaders. Such testimony as they offered before committees of Congress was of a most perfunctory sort, and few of their spokesmen appeared at all at the public hearings. It is my purpose to consider somewhat in detail the significance of this last amendment of the Interstate Commerce Act.

Carriers subject to the Act

Upon the Interstate Commerce Commission, whose jurisdiction had been extended by the amendments of 1906, the new Act lays still further responsibilities. Interstate telegraph, telephone, and cable companies, whether wire or wireless, are declared to be common carriers within the purpose of the Act, and are placed under the regulating authority of the Commission. These companies are allowed to classify their messages into day, night, press, government, and other forms of service, and to prescribe different rates for the different classes, and are authorized to enter into contracts with other common carriers for the exchange of services. The original suggestion for the inclusion of these carriers came from a Democratic member of the House, and his amendment was promptly adopted over the objections of those in charge of the railroad bill in that body, who protested against hasty action that would bring these carriers under a law ill-adapted to their regulation, and framed for transportation corporations whose operations were of a distinctly

different character. Yet with the right to classify messages, the principle of just discrimination is recognized, and there seems to be no good reason why the Commission cannot apply to agencies of this character the same rules of action that are applied to transportation companies. Beyond this the jurisdiction of the Commission over interstate carriers remains as before.

Long and Short Haul Clause

The amendment to the Act which will probably be most far-reaching in its effects is that which restores the long and short haul clause to a place of active participation in the task of railroad regulation. In order to make clear the changes, it will be well to reproduce this section as it has stood untouched since 1887.

Section 4. — That it shall be unlawful for any common carrier subject to the provisions of this Act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this Act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however*, That upon application to the Commission appointed under the provisions of this Act, such common carrier may, in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this Act.

This clause was shorn of all significance by a Supreme Court decision in 1897 [1] which virtually de-

[1] Interstate Commerce Commission *v.* Alabama Midland Ry. Co., et al. 168 U. S. 144.

clared that competition of railroads at terminal points created those dissimilar circumstances that warranted a suspension of the clause, and furthermore, that if circumstances were substantially dissimilar, the railroads were not in violation of the statute if they charged a less rate for the longer distance without permission of the Commission. Justice Harlan in his dissenting opinion said, "Taken in connection with other decisions defining the powers of the Interstate Commerce Commission, the present decision, it seems to me, goes far to make that Commission a useless body." That the decision was a severe blow to the power and prestige of the Commission was clear, and it became clearer as time went on, for this evil, which Chairman Knapp called "the most irritating and obnoxious form of discrimination that has been encountered," did not cease, but became if anything more widespread and burdensome. It has been present in full force in the South in the basing-point system. As the cities of the Rocky Mountain region have grown in strength, they have wished to build up a distributing business in mountain territory, and the practice of giving rates to Pacific Coast points lower than those granted to the interior has become to them well nigh intolerable. Every stream of water, whether navigable or not, has been eagerly seized upon by the railroads and raised to the dignity of a competitor, in order to justify the low rate to a distant point. Every attempt on the part of public or Commission to equalize rates on a plan which approximated the distance basis, has been met by the roads with the plea that such a revolution would utterly destroy established industries. "God help New England if the long and short haul clause is restored," is the remark of a railroad president which

typifies fairly the position of the carriers. In view of the burdens imposed on so many industries under the existing practice of the railroads, it is surprising that no action was taken and that the subject was not even seriously considered, when the Act of 1906 was passed. Failure to act at that time was due in large part to the vigorous protests of the railroads.

No amendment of the clause was suggested this time in the Administration bill, but in both Senate and House the western representatives were insistent that the subject should not be passed over. The "insurgents" gained new strength from the alliance with these mountain Congressmen, and succeeded in giving Section 4 a new lease of life. It was the House amendment which finally became law. This eliminated from the old section the words "under substantially similar circumstances and conditions," thus making it unlawful under any circumstances to charge more for the longer than for the shorter distance, unless permission should be secured in advance from the Commission. No other changes were made in the section except that (1) the prohibition was extended to include *route* as well as *line*, thus making it clear that jurisdiction extends over routes made up of more than one railroad line, and (2) carriers were prohibited from charging more for a through route than the aggregate of the intermediate rates, which legalizes a rule that the Commission has consistently followed in its decisions. No rates are required to be changed under this clause until six months after the passage of the Act. If held constitutional in its amended form, the section will put into the hands of the Commission a power by which they may readjust the entire rate structure of the country, subject only to the limitation that rates

must be reasonable. How far they will take advantage of this sudden and extraordinary increase in their authority remains to be seen. Judging from recent decisions, they are likely to continue their readjustment of rates in trans-Mississippi territory with much more confidence that their findings will be sustained by the Courts.

I refer to the question of constitutionality, because able lawyers in both House and Senate expressed doubts whether the clause as worded would stand the judicial test. It prescribes no rule by which the Commission is to be guided in the discharge of its duty and hence, it is argued, confers the legislative power upon an administrative body. The form of the amendment in the Senate bill was in this respect more acceptable, for it stated in detail the circumstances under which the Commission could suspend the clause. But the House conferees insisted upon their form of amendment, probably because there seemed less likelihood that decisions under it could be reviewed by the courts, and they prevailed. An amendment which had been recommended by the National Waterways Commission in its recent report to Congress was submitted by its Chairman, Senator Burton, and became a part of Section 4. It provided that whenever a railroad in competition with a water route should reduce its rates to competitive points, it should not be permitted to increase them unless, after hearing before the Commission, it should be found that such increase rested upon changed conditions other than the elimination of water competition. The only provision of this kind previously in existence in this country is to be found in the constitution of California, under which document the Railroad Commission of that state is created, and it was from

this source that the suggestion of the Waterways Commission came. The clause therein contained is practically identical with the one adopted by Congress. A provision in the Senate bill, giving the Commission the right to prescribe minimum railroad rates on lines competing with waterways, whenever in its opinion the object of the railroad in reducing rates is to destroy waterway competition, unfortunately failed in conference. The purpose of the clause as enacted is obvious. It is to restrain railroads from continuing the practice, now so common, of driving boat lines from the rivers and canals by extraordinarily low rates, and then recouping themselves later by raising their rates to a point even higher than what would be reasonable in the absence of any competition. This clause should give an impulse to the movement already begun for a restoration of boat lines on the Ohio and lower Mississippi.

Rates and Routes

Suspension of Rates. — To realize the full significance of the amendment to Section 15, which gives the Commission power to suspend proposed changes in rates, it is necessary to discuss the practical working of the Hepburn Act, now in operation nearly four years. That Act gave the Commission power to prescribe rates, but only after hearing and upon complaint, and no complaint could be entertained until a rate was actually in effect. It is clear, therefore, that a shipper had no satisfactory method of avoiding the burden of an increased rate, until he could actually prove by experience that it was unreasonable. If the rate as put into effect proved unreasonable, he might obtain from the Commission an order on the

carrier for reparation, but if he were a small shipper he would probably have been driven out of business before his case was decided. Moreover, there are other reasons why this reparation method is not an adequate solution of the difficulty. It is slow, cumbersome, and costly and it does not restore to the shipper the property of which he has been deprived. Loss of his business to a competitor because of an unreasonable rate cannot be compensated for by a return of the excess over the reasonable rate. In probably a majority of cases, the burden of the freight rate is shifted to the consignee, is absorbed into the retail price of the goods, and paid by the ultimate consumer, who is not a party to the shipment and has no standing before court or Commission. His interest, so vital and so intangible, can only be protected by an authority which stands for universal justice and equality, and has power to determine, before a new rate becomes effective, whether such rate is desirable and just.

In addition to demands on the Commission for reparation, the shipper has to some extent invoked the aid of the courts to restrain an advance in rates. This method has not proved satisfactory. In the first place, the power of the courts to suspend rates before they become effective has been bitterly contested. We are certainly led to think that one must scurry far and wide to find good legal grounds for suspension of rate advances by the courts, after observing the manner in which the Administration invoked the Sherman Anti-trust Act as a means of enjoining the western roads from raising their rates, by declaring them to be a combination in restraint of interstate commerce, and then, when the railroads agreed to submit their proposed increases to the Commission under the pending law, it dismissed the

grave charge against them, and had the injunction suspended. But even if the power exists in the courts to restrain rate increases, an injunction can issue only in favor of the petitioners, and only upon the filing of a bond. The large body of shippers who cannot file a bond, and who do not petition the courts, are obliged to pay the new rate. Again, such a court injunction applies only to the circuit over which the court has jurisdiction, and hence may cause confusion in cases of shipments which pass through more than one circuit.

It is obvious that no carrier should be compelled to lower a rate without a hearing. It should be equally obvious that no shipper should be compelled to suffer an increased burden without having an opportunity to present his case. A rate long in existence is presumptively reasonable, and no serious hardship can arise if a postponement of the effective date of a change in such rate is made pending an examination of its reasonableness.

This was the situation which influenced the Administration and Congress to make a radical change in our method of rate control. It is now provided that whenever there shall be filed with the Commission any new rate or fare or classification, or any regulation affecting a rate, the Commission is authorized, either upon complaint or upon its own motion, after reasonable notice to the carrier, to enter upon a hearing, and pending such hearing and decision, it may suspend the operation of the rate or other regulation for not more than 120 days beyond the time when it would have gone into effect. If the hearing is not then completed, it may extend the time of suspension for a further period of six months. After full hearing, the Commission may make such order

as would be proper in a proceeding initiated after the rate became effective. In any hearing involving a rate increased after January 1, 1910, the burden of proof is on the carrier to show that the increased rate is just and reasonable.

In other words, the Commission may suspend rates for ten months beyond their effective date but no longer, and if the investigation is not then complete, the rates automatically go into effect. The "insurgents" of the Senate led by Senator Cummins failed in an effort to secure a provision which should require the approval of the Commission to make rates effective, yet the length of time granted for investigation should make that desirable result possible in most of the important cases.[1] Strength is added to the position of the Commission by the provision making all increases in rates presumptively unreasonable. Those who consider this legislation as revolutionary and drastic should bear in mind that this is merely giving those same safeguards to the shippers and the public, that we have long given through statute and constitutional privilege to the common carriers. If a rate has been lowered by order of the Commission, the carrier has had the right to enjoin its enforcement and the ultimate determination of the question has been postponed often for years, the old rates in many instances continuing in force. Except in complicated cases involving extensive changes over wide areas of country, it is unlikely that the Commission will take advantage of the full ten months permitted by law, and prelimi-

[1] When it is observed that in the month of July (1910) 15,000 tariffs were filed announcing advances in rates in trunk line territory alone, it becomes clear that the Commission, in the ten months allowed by law, would not have time even to issue the necessary suspending orders covering all the advances. Yet when conditions again become normal, it is probable that all important increases which occasion any serious complaint can be adequately considered within the time limit.

nary notice of from four to six months of changes in rates, which is likely to be the practice, should not injure the carriers and should prove of immense value to shippers. Obviously, however, the greatest benefit to the public in general will come from those suspensions of rates which become permanent and never reach an effective date.

Misquotation of Rates. — Section 6 of the Act requires carriers to post their tariffs for public inspection at all stations where freight is received for transportation. The shipper is then presumed to consult these schedules and ascertain the rate for himself. But the schedules are so voluminous, and even in their constantly improving condition so complicated, that theory does not accord with fact. The shipper cannot discover the rate. He must therefore rely upon the statement of the agent, and if the latter misquotes the rate so that he enters upon engagements in which he suffers loss when the correct rate is collected, he has no recovery, for under the decisions of the Supreme Court carriers must collect their published rates or be subject to severe penalties, even tho they have quoted a different rate to the shipper, in good faith, upon which he has acted.[1]

To bring relief to this situation, Section 6 has been amended by providing that if, after written request has been made upon the agent of a common carrier for a written statement of a rate applicable to a desired shipment between stated places, under tariffs to which the carrier is a party, such common carrier shall refuse or omit to give such statement within a reasonable time, or shall misstate in writing the applicable rate, and if the applicant suffers

[1] 202 U. S. 242.

damage, either through making the shipment over an unnecessarily costly route, or through entering into a contract to pay the freight charges, then the carrier is liable to a penalty of $250 which is to accrue to the United States. The misquotation or non-quotation of a rate after a proper request is now made a misdemeanor, with a penalty payable to the United States. A majority of Congress felt that any scheme which would have permitted a civil suit for damages, with recovery by the shipper, would have opened an easy road to rebates, and it was for this reason that a Senate amendment giving a shipper this right of recovery was dropped out in conference. But with the heavy penalties in existence against rebating, and with the ease with which the carrier and shipper could be detected through the written statements required under this section, it is not at all clear that a provision which would permit shippers to recover damages would promote rebating. Yet to the law-makers a penalty that would serve to make agents more responsible seemed to be the only feasible plan.

Through Routes. — The Hepburn Act authorized the Commission to establish through routes and joint rates when carriers had refused or neglected to establish such routes and rates voluntarily, and no reasonable or satisfactory through route existed. The difficulty in the enforcement of this provision has been in the interpretation of the words "reasonable or satisfactory," for what might be reasonable or satisfactory for one purpose and under one set of conditions, was not so for another purpose or under other conditions. This was shown in the Portland Gateway Case,[1] in which the Commission held that

[1] Northern Pacific Railway Co. v. Interstate Commerce Commission, 23d Annual Report of Commission, p. 36.

because a large group of passengers could not secure joint rates from St. Louis to Seattle by way of Portland, but could do so only by the "Hill" lines, no satisfactory through route existed for them, and they ordered one established by way of Portland. Against this order, the Circuit Court granted an injunction basing its action upon the literal wording of the statute. The Commission, therefore, urged that this limitation upon its power to prescribe through routes be removed, at least so far as passenger business was concerned. Again, there are frequently conditions in freight traffic due to car shortage, lack of facilities, and the like, when public necessity and convenience demand that some pressure should be brought to bear upon the initial carrier to provide additional through routes.

In the Act under consideration, the proviso that "no reasonable or satisfactory through route exists" is eliminated, and the Commission may, after hearing, order such through routes and prescribe such joint rates as seem desirable, even when one of the connecting carriers is a water line. The only limitations upon its power in this regard are, (1) that because of its obvious impracticability, no through route shall be formed with a street electric passenger railway not engaged in freight business, (2) that no route may be established when the transportation is wholly by water, as this would be beyond the jurisdiction of the Commission, and (3) that no railroad company shall be required without its consent to embrace in the through route substantially less than the entire length of its road, or any intermediate road under its control, which lies between the termini of the proposed route, unless this would make such route unreasonably long as compared with a more practicable route.

This last limitation, embraced in the Administration bill, was eliminated from the House bill, but was restored on the floor, in response to the urgent demands of the railroads who feared that the Commission might, in seeking for the speediest routes, take small portions out of their lines, and deprive them of much of their long haul business. Yet in its present form it is doubtful whether the clause is workable at all, and whether the Commission's power over through routing is not less than before. When each railroad can include substantially all of its line in a through route to which it is a party, it will establish it voluntarily, and the Commission's authority will not be invoked. It is in cases where the through route requires the inclusion of a part only of a carrier's line that conflict will arise and the Commission will be requested to exercise its authority, and it is in just such cases that the hands of the Commission are tied. It is not unlikely that this limiting proviso has nullified the entire clause.

Right to Route Traffic. — Doubtless in the majority of cases a shipper is indifferent as to the route which his property takes, provided he secures satisfactory service and the lowest rates. Again, it is probably true that the expressed wishes of the shipper as to route, particularly if he is a large shipper at a competitive point, have been in most cases readily conceded by the carrier. Nevertheless, the shipper has had no legal right to determine the route of his shipment; in fact, the courts have expressly denied him this right whenever the carriers have in their tariffs reserved control over routing. In the California Orange Routing Cases, it appeared that the carriers had reserved the control over the routing of the fruit to prevent alleged rebating upon certain connecting

lines, over which the fruit shippers wished their product to move. This practice of the initial carriers was held by the Commission to be an undue prejudice and disadvantage to the orange shippers, and a violation of Section 3 of the Act; but the practice was sustained by the Supreme Court of the United States.[1] In their appearance before the House Committee on Interstate Commerce, the shippers contended that the carrier had no property right in the goods, and should leave the routing to the owners, that it was frequently necessary to know the route in advance in order to safeguard the shipments and arrange for their receipt, that if they arranged the routing, delays in transit due to blockades or to the reloading practices of connecting roads might be avoided, and that in general the shipper would be in a better position to secure the most efficient service. It was contended further that the present policy of leaving the routing to the initial carrier tended to the development of pooling and exchange of traffic between certain carriers to the exclusion of competitors, and hence resulted in increase of rates and in deterioration of the service. The right to route traffic would be of special value to the local shipper who could not make as effective demands upon the carrier as the large shipper at the competitive point. The main argument of the railroads for a continuation of the existing practice was that without a policy of reciprocation between connecting lines, it would be impossible to secure the facilities necessary to serve the public, and a withdrawal of the practice would tend to less efficient and more expensive transportation.

It is now provided that when two or more through routes and through rates exist, to which the initial

[1] 200 U. S. 536.

railroad is a party, the shipper, subject to such exceptions as the Commission may prescribe, may designate in writing the route which he prefers, and a bill of lading must then be issued in conformity with his instructions. It is further provided that where competing lines form part of a through route, the shipper may designate over which of the competing lines his freight shall be transported, even tho no joint rates have been agreed upon or filed. This additional proviso would seem to give the shipper all the freedom he could possibly wish for shipments of any distance. For it would be difficult to find any route of any considerable length in which for at least a portion of the way there do not exist competing lines of railroad. Yet it is doubtful whether in the long run this radical change of policy will work out to the best interest of the shipper. His main concern is to name the delivering road, and he will, to be sure, have more freedom in this respect hereafter. But his requests, when reasonable, have heretofore usually been granted by the initial carrier. Now by naming his own route, he assumes all responsibility and the carrier must follow his instructions, strikes, blockades, and acts of God to the contrary notwithstanding. To be sure, the so-called Carmack amendment adopted in 1906, which makes the initial carrier liable to the shipper for damage, even if the damage occurs off its own line, is still in force. In fact, a Senate amendment relieving the carrier from liability beyond its own line, when the shipper selects a line over which no through route has been established, was thrown out in conference. Yet it is inconceivable that the courts will ever insist upon the liability of an initial carrier for a shipment over a series of connecting roads, where neither a through route nor a joint rate has been agreed upon.

Passes. — The Anti-pass clause has been modified by adding to the excepted classes to whom the railroads may grant free transportation, necessary caretakers of milk, and by enlarging the meaning of the term "employees" so as to include the disabled, infirm, pensioned, and superannuated and their families, the bodies of employees killed in the service, the families of such employees, and the widows and minor children of those who die while in employment.

The following proviso was also added: —

> That this provision shall not be construed to prohibit the privilege of passes or franks, or the exchange thereof with each other, for the officers, agents, employees, and their families of such telegraph, telephone, and cable lines, and the officers, agents, employees, and their families of other common carriers subject to the provisions of this act.

I have quoted the exact words in order that each reader may determine its true significance for himself. It appears to be directed only to the telegraph and telephone companies newly incorporated in the Act, and yet the urgency with which the express companies pleaded their cause in the hearings before the House Committee makes one look for a deeper meaning. The Supreme Court, last February,[1] held that the Act did not permit express companies to issue franks to their officers and employees, or their families, or to exchange them for railroad passes, because the permissive clause of the Act applied solely to the carriage of passengers. The express companies have felt aggrieved by this decision and have urged that they be brought "within the spirit of the law." The exchange of telegraph and telephone franks, if properly safeguarded, should not be injurious to the public welfare. Express franks might also be permitted

[1] 212 U. S. 522.

under careful restrictions and certainly should be allowed if the privilege is granted to other classes of carriers. But the illegitimate issue of express franks has become such a scandal that there can be no justification for permitting their unrestricted use. It is significant that this cyptic clause had its birth in the Conference Committee.

Classification. — For the first time, the Act specifically provides that carriers shall establish and enforce reasonable classifications of property for transportation. This gives the Commission no authority which it has not exercised since 1906, but merely puts its power beyond dispute. A provision in the Senate bill directing the Commission to investigate and report as to the feasibility of a uniform classification of articles of commerce throughout the country was eliminated in conference.

Additional Powers

Power to initiate Inquiries. — The original Act (Section 13) authorized the Commission to institute "any inquiry on its own motion in the same manner and to the same effect as tho complaint had been made." The Commission frequently in its history has made use of this power, and has itself begun proceedings for the removal of unreasonable conditions in rates and practices. But the Hepburn Act, in conferring upon the Commission the rate-making power, authorized it (Section 15) to make orders "after full hearing upon complaint made as provided in Section 13." It then became uncertain whether the Commission could make an order under Section 15 in a proceeding which it had instituted on its own motion as authorized by Section 13. It was of the

greatest importance from the public standpoint that the Commission should continue to act on its own initiative whenever a situation seemed to warrant it. Frequently it was desirable that complaints should be broadened, and that the Commission should investigate on a more comprehensive plan than the complaint as filed would permit. The Commission has in a few instances followed this policy, but it seemed undesirable that it should continue to exercise the right under a clouded title.

Section 13 has now been amended so as to leave no doubt as to the powers of the Commission. It is given full authority at any time to institute any inquiry on its own motion, as to any matter concerning which any complaint is authorized, or any question may arise under the provisions of the Act, and its powers are to be the same, including the power to make and enforce orders, as tho the matter had arisen through formal complaint. Section 15, which gives the Commission power to prescribe rates upon complaint and after hearing, is amended by authorizing the Commission to issue orders " after full hearing under an order for investigation and hearing made by the Commission on its own initiative (either in extension of any pending complaint or without any complaint whatever)."

Regulations and Practices. — It is required by the new Act that carriers shall prescribe just and reasonable regulations concerning the issuance, form, and substance of tickets, bills of lading, manner of marking, packing, and delivering property, carrying of personal, sample, and excess baggage, and all other matters relating to the handling or storing of property, and all unreasonable regulations are prohibited and declared to be unlawful. This clause covers a mul-

titude of details in connection with both passenger and freight traffic, concerning which there has been from time to time complaint on the part of shippers and passengers. One instance is that of sample baggage. Representatives of the traveling salesmen, in hearings before the House Committee, complained of the anomalous position which they occupy with respect to their baggage. Sample baggage in some states cannot be carried as personal baggage; in some sections railroads refuse to carry it at all; in other sections, railroads accept it, but assume no responsibility and the salesman is without standing before the Commission if he complains of unreasonable treatment.

Another illustration of the kind of supervision which the Commission is expected to exercise under this section is found in the Act regulating the transportation of explosives, passed originally in 1908 and re-enacted in 1909, which directed the Commission to prepare regulations for the safe carriage of such traffic. Such power of supervision is now conferred in a general way by this amendment over all methods of handling and transporting property.

It is made unlawful for a railroad to enforce other than reasonable regulations, and by an amendment to Section 15, the Commission is given jurisdiction over all regulations and practices of carriers and the power to prescribe reasonable regulations to be hereafter followed. This broadens the scope of the Commission's authority, for under the Act of 1906 the Commission had no jurisdiction over the regulations and practices of a railroad except as they entered into the value of transportation to the shipper.

Facilities for Through Routes. — In connection with the requirement that every carrier shall establish

through routes and just and reasonable rates applicable thereto, it is now made the duty of each to provide reasonable facilities for the operation of these routes, proper rules for the interchange of cars, and reasonable compensation to those entitled to it. This clause was aimed at those railroads which limit the range of movement of their equipment, and was designed to promote the efficiency of through business.

Procedure

The entire question of procedure may best be considered in connection with the sections creating the Commerce Court. This court is to consist of five judges appointed for terms of five years. At the beginning, the President is to appoint five additional circuit judges for terms of from one to five years. At the expiration or termination of the assignment, the Chief Justice of the Supreme Court is to designate a circuit judge to fill the vacancy. After 1914, no circuit judge is to be reassigned to service in the Commerce Court without an interval of one year. Four judges constitute a quorum of the Court, and a majority must concur in all decisions. Regular sessions of the court are to be held in the city of Washington. If at any time the business of the Court is not sufficient to demand the services of all the judges, the Chief Justice of the United States may terminate the assignment of any judge, or temporarily assign him for service in any circuit court or circuit court of appeals.

Exclusive jurisdiction is conferred upon this Court over the following kinds of cases: —

1. All cases for the enforcement of any order of the Commission other than for the payment of money,

where enforcement does not involve the collection of a forfeiture or penalty, or the infliction of criminal punishment.

2. All cases brought to enjoin or set aside in whole or in part any order of the Commission.

3. Suits brought under the Elkins Act to enjoin illegal discriminations or departures from published rates.

4. Suits brought under Section 20, praying for the issuance of writs of mandamus, to compel the filing of proper reports or the keeping of prescribed accounts, and under Section 23 to compel the movement of interstate traffic or the furnishing of facilities.

The first class of cases comprises those in which an order of the Commission has been disobeyed by the carrier, and suit is brought for its enforcement. Suits for the collection of damages are left as in the Hepburn Act. The complainant files his petition in the Circuit Court of the United States, and the case proceeds as do other civil suits of similar nature. The only change made in the new Act in this respect is the inclusion of a permission to file such suits also in state courts of general jurisdiction. If orders other than those excepted are disobeyed, the Commission or any party injured, or the United States, may apply by petition to the Commerce Court, and this Court, if it determines "that the order was regularly made and duly served, . . . shall enforce obedience by a writ of injunction or other proper process."

In the second class of cases are included orders of the Commission which the carrier seeks to enjoin or annul. Such appeal by a carrier does not operate of itself to stay the order of the Commission, but the Court may suspend in whole or in part the operation of the order pending final hearing of the suit. No

injunction may issue except upon notice and after hearing. In cases where irreparable damage is liable to ensue, the Court, or a single judge thereof, may grant a stay of not more than sixty days, but such stay can only be granted upon hearing, and after three days' notice to the Commission and the Attorney-General, and the order granting the stay must contain a specific finding based upon evidence that such irreparable damage will ensue, and specifying its nature. Upon hearing the application, the full Court may continue the temporary stay beyond the sixty-day period until its final decision. The procedure retains in modified form the principle so bitterly contended for in the passage of the Hepburn Act, that notice and hearing must precede the issue of even a temporary injunction. The five days' preliminary notice of the Act of 1906 has been now reduced to three days.[1] As in the Hepburn Act, appeals may be taken from an interlocutory order granting an injunction, if made within thirty days, and from a final judgment of the Commerce Court if made within sixty days. Such appeals do not operate to supersede or stay the judgment unless so directed by the Supreme Court, and such cases have priority in hearing and determination over all except criminal causes.

It should be noted that in exercising jurisdiction over the first two classes of cases, those for enforcement of the Commission's order following disobedience by the carrier, and those brought by a carrier in protest of the Commission's order, the new law holds the ground gained by the judicial interpretation

[1] The measure as it passed the House provided for no preliminary notice, but limited the operation of the injunction to seven days. The Senate bill provided a five days' preliminary notice, and a stay of sixty days.

of the Hepburn Act. That Act put all orders of the Commission into effect unless suspended or set aside by a court of competent jurisdiction, and it also provided that "if upon such hearing as the court may determine to be necessary it appears that the order was regularly made and duly served . . . the court shall enforce obedience." In discussing the Hepburn Act soon after its passage, I commented upon this provision in the following words:[1] "It is perfectly clear that the judicial power is expected to interfere only when the order of the Commission is *ultra vires* or unconstitutional. . . . Whether the Supreme Court will decide that the intent of the statute is unequivocally expressed in its terms remains to be seen. If upheld, a permanent step has been taken in the solution of the problem of railroad control. Not only will the orders themselves be more effective, but their value will be enormously increased by the expedition with which they will go into effect." In the recent case of the Interstate Commerce Commission v. Illinois Central Railroad Company[2] this specific question was at issue and the Court seems to hold that it can only inquire as to the power of the Commission to make the order, and not into the expediency or wisdom of it; and in determining whether it should be set aside, it must consider solely whether the order was constitutional and whether it was within the scope of the Commission's delegated authority. So significant did this decision appear to be in limiting the powers of the Circuit Courts, and in strengthening the administrative powers of the Commission, that the advocates of administrative supervision insisted upon restricting the powers of

[1] Quarterly Journal of Economics, vol. xxi, p. 46.

[2] 215 U. S. Rep. 452.

the new Court explicitly to those which, by this decision of the Supreme Court, the regular circuit courts were held to possess. Hence the Attorney-General, altho he contended that the bill as framed guarded this matter adequately, framed an amendment, providing that "nothing contained in this Act shall be construed as enlarging the jurisdiction now possessed by the circuit courts of the United States or the judges thereof, that is hereby transferred to and vested in the commerce court," and this provision became a part of the measure as adopted.

Care has been taken in the framing of these sections to furnish as simple a mode of procedure as possible in invoking the jurisdiction of the Court, and particularly to eliminate all technical details of procedure that might furnish pretexts for delay to contesting counsel. Thus, for example, when a case is appealed to the Supreme Court, the Commerce Court is authorized to transmit the original record instead of a transcript, thus saving expense and eliminating the opportunity to question the accuracy of the record. Again, in order to avoid delay incident to the service of papers, every carrier is required to designate an agent in Washington upon whom process may be served.

The question of procedure which the Administration had most at heart was that which provided for the bringing of suits against the United States, instead of against the Interstate Commerce Commission; gave to the Attorney-General of the United States entire charge of all cases in the Commerce Court and in the Supreme Court on appeal; and stipulated that the Interstate Commerce Commission and its attorneys should take no part in the litigation.

Heretofore, suits to review or set aside orders of

the Commission have been brought against it *eo nomine*, and have been defended by its own attorneys under the nominal supervision of the Attorney-General. This practice has given rise to the criticism that the Commission assumes the functions of investigator, judge, and then prosecutor, and that it is undignified for the Commission, having once rendered a judicial decision [1] to go into the courts as a litigant in defense of its own orders. But the influence that was probably responsible for this provision emanated from a sensitive Department of Justice, which felt that the prosecuting force of the Interstate Commerce Commission was invading its territory. This clause was framed by the Attorney-General of the United States with the purpose of defining clearly the functions of two conflicting departments, and re-establishing the Department of Justice in the position where he thought it properly belonged. But his ambitious program received a serious check at the hands of the "insurgents" in both houses, particularly in the Senate where generous provision for intervention of interested parties was made. Suits are to be brought against the United States rather than the Interstate Commerce Commission, and the Attorney-General is to have control of the interests of the Government in the Commerce Court and on appeal; but the Interstate Commerce Commission, and any party in interest to the proceeding before the Commission, may appear as parties of their own motion and as of right, and be represented by counsel, and the Court, not the Attorney-General, is to make all rules concerning appearances, procedure and number of counsel. A majority of the Senate

[1] The Illinois Central Case, just referred to, would seem to imply that the Commission is a legislative and not a judicial body.

Committee, in introducing the Administration measure, discussed this subject of intervention, and declared that such a practice "would introduce intolerable confusion in legal proceedings, and subordinate the general interests of all the people to the selfish concerns of one or more parties, whose special interests might be wholly at variance with the general public welfare," and that "it would be impossible for the Attorney-General to discharge the duty of defending the interests of the Government, if the conduct of the lawsuit were suffered to be complicated by one or a dozen or perhaps fifty intervening citizens, each advocating his own particular views, which might or might not harmonize with those of the counsel for the Government." Yet in the face of such arguments, the Act provides that not only interested parties, as already noted, but also communities, associations, corporations, firms, and individuals "who are interested in the controversy or question" before the Commission, may intervene at any time after the institution of a suit, and the Attorney-General shall not dispose of a suit over the objection of such intervenor. This procedure, which seems to carry informality to an extreme, came in response to the wellnigh unanimous protest of shippers against the administration program. They contended that if cases were taken out of their hands, and if the Commission itself were denied participation, there would be no one connected with the case in the courts who had had any familiarity with it in its earlier stages, and that in complicated traffic questions this lack of association with the contest from the beginning would render the United States attorneys so helpless in contest with the railroads, that a disastrous outcome to the litigation in the courts would be a

foregone conclusion. They were unwilling to rely upon the self-interest of the Attorney-General to employ shippers' counsel as his assistants.

The motives which led to the recommendation of a Commerce Court were stated in the special message of the President on January 7, when he called attention to the delay now attending the adjudication of cases in the United States Courts, the contrariety of opinion which issues from them, and the apparent inability of circuit judges to cope with the mass of conflicting and highly technical evidence. But the proposition met with surprisingly little cordial support. Its defense was perfunctory, the attack upon it was vigorous and pointed, and its adoption after significant amendment was apparently the result of a compromise with the radicals, who granted this pet project of the President's in return for provisions which they considered vital to the measure. The Court was attacked, in the first place, as an unnecessary expense. It was shown that the number of cases that arose during the period from the passage of the Hepburn Act to the close of 1909 and would have come under the jurisdiction of the Commerce Court, was only 26, and that the decision of the Supreme Court in the Illinois Central Car-distribution Case so narrowed the power of the courts over orders of the Commission, that the number of cases was likely to diminish in the future. In answer to the claim that delays would be avoided by a court which devoted its attention exclusively to railroad cases, it was contended that the delays arose in the preparation of cases, the taking of evidence, and in the presentation and adjudication of cases on appeal in the Supreme Court, and that none of these delays would be avoided under the new arrangement. Such uniformity as

was desired from this Court was now being secured on appeal to the Supreme Court, whose business it was to look at these national questions in a broad way, and harmonize conflicting judgments. Moreover, such a court, set apart to handle a specific kind of cases, in which corporations with enormous capital and great influence were interested, would become a special target for attack, and this would tend to lessen respect for our judiciary even if the attacks had no justification.

Even among those who favored the creation of the Court, there were many, like the members of the Interstate Commerce Commission and prominent railroad attorneys, who objected to its shifting character. If expert knowledge of railroad questions was a desirable possession on the part of the judges in this Court, then why should they not be made a permanent body instead of being transferred every five years, or even more frequently, if the supply of cases did not meet the demand? Is it probable that expert knowledge would be found in a court, which, after five years, would be drafted from the general body of circuit judges?

A final conclusion as to the wisdom of this policy must wait upon experience. Certainly the criticism of it was weighty enough to throw the burden of proof upon its advocates. That uniformity in decision is desirable by courts below our highest tribunal is not self-evident, that speed will be secured is a question of fact to be settled by actual test. A perusal of Supreme Court decisions on interstate commerce questions would lead one to desire a greater interest in technical traffic questions on the part of our judiciary, but this plan does not relieve the situation in the Supreme Court, and helps little in the Commerce

Court, because judges are assigned to this work for a temporary period. That the Court may have more occupation than it would have had during the last three years is very likely, for the amendments to the Act will add to the litigation on interstate matters, and further amendments to the law are not improbable. Specialization in judicial affairs should be beneficial as it has been in other fields of activity, and carefully chosen judges of unquestioned integrity should be able to withstand demagogic attacks. However, all that can be said for the Commerce Court at the present time is that it can do no harm, and that it has in it some possibilities for good.

Miscellaneous Provisions

Penalties. — The provisions of Section 10 which have stood unchanged since 1889, and which provide penalties of a $5000 fine and a two years' imprisonment against both shippers and carriers for infractions of the Act such as false billing, and against shippers for inducing common carriers to discriminate, are now made applicable to all cases for which no penalty is otherwise provided. Offenses against which the section is directed are made more specific, especially those which cover misrepresentation on the part of the shipper of the actual character of his shipment. For this offense, not only the agents of corporations, but shipper corporations themselves, are now made liable.

Disclosure of Information. — It has been made a misdemeanor, with a penalty of $1000, for any common carrier, or any agent or employee, to disclose any information concerning the nature, route, or destination of any shipment, when such information may

be used to the injury of the shipper in favor of a competitor. It is likewise made unlawful for any person to solicit such information. Thus a tardy step has been taken to protect shippers against a most contemptible form of espionage practiced by competitors, usually by those who are powerful and well organized, and who, through the pressure which they can bring to bear as large shippers, can secure from the railroads information concerning the business of their rivals. In many instances, they have resorted to outright bribery of railroad employees. Had this law been on the statute books for the last twenty-five years and been vigorously enforced, small shippers would have had one less reason to denounce the abuses of aggregated capital.

Statistics. — Section 20 relating to statistics and accounts is amended by permitting the Commission to adopt for its statistical reports, the calendar year instead of the government fiscal year as at present, and by making more specific its power to call for periodical and special reports under oath.

Enjoining State Statutes. — A section was added at the end of the Act, which has no direct relation to the problem of common carrier regulation, yet has been called forth mainly by the conflicts of jurisdiction in railroad cases. It provides that any petition for an interlocutory injunction, suspending a state statute, shall be made before three judges, of whom one shall be a justice of the Supreme Court of the United States, or a circuit judge. The application shall be heard only after five days' notice, except when irreparable loss or damage would result, in which case any one of the judges may grant a restraining order, which shall be effective only until the application for injunction can be heard. Appeal is direct to the Supreme Court.

The Act is to take effect at the expiration of sixty days after its passage, that is, after August 17, except the rate section and that creating a Commission on capitalization. These two sections took effect immediately.

Projects which Failed of Enactment

The projects which failed of incorporation in the Act were quite as interesting and important as those which were adopted, and deserve a moment's consideration. It is significant that the two specific recommendations made in the Republican platform for amendment of the Interstate Commerce Act both failed of passage. The amendment authorizing agreements between carriers as to rates failed to pass either house. Conflict arose over the questions as to whether such agreements should be approved in advance by the Commission and whether in fact it would be practicable to require such approval. It was contended that if such agreements contained all the rates involved, a submission of the agreements to the Commission would mean a costly duplication of the present labor incurred in connection with the filing of tariffs. But the real cause for the defeat of this proposal was the conviction that this meant a repeal of the Anti-trust law so far as railroads were concerned. It is apparent that the people are not yet ready to accept the principle of combination as applied to these great aggregations of capital invested in the transportation industry. How long we shall continue fondly to hug this fallacy of competition no one knows. There is certainly no immediate prospect that it will be abandoned in favor of any other economic principle.

The elaborate provisions which, with certain important exceptions, forbade the purchase by one railroad of the stock of another, and those which were intended to place the control of future capital issues in the hands of the Commission, all went down in defeat. They were extensively amended in the House. They were thrown out in the Senate by an almost unanimous vote. Their opponents represented three points of view. There were those who opposed stock and bond regulation of any kind. There was the element which regarded this project of federal regulation as an invasion of the rights of the States. Finally there was the group which strongly favored the principle, but which felt that the specific plan of the Administration was so cumbered with exceptions, and so guarded with provisions of one kind and another, that the net result was a legalization of the present situation and a validation of a mass of worthless securities. The House section went to conference and would have been thrown out altogether, but for the President's insistent reminder of the platform pledges. However, the most he could secure was the right to appoint a commission with authority to investigate questions pertaining to the issuance of stocks and bonds by railroad corporations, and the power of Congress to regulate such issues. While the desirability of control of capitalization is unquestioned, yet the plan as proposed was so complicated and the step after all so radical, in view of our previous policy, that it would seem wise to make haste slowly. If the commission does nothing else, it will at least give the public and its representatives in Congress an opportunity to gain a better acquaintance with the problem, and it may help to educate them along lines of wise regulation. It is to be hoped

that the proposal of the Administration bill will appear at the next session, shorn of a mass of the verbiage which now surrounds it.

The House sent to the Conference Committee an amendment directing the Interstate Commerce Commission immediately to ascertain the value in money of all railroad property in the United States, and after the completion of this valuation, to ascertain periodically the value of extensions and improvements, such valuation to be received as prima facie evidence of the actual value of railroad property in all proceedings before the Commission and the courts. Those who passed this amendment in the House had no expectation that it could run the gauntlet of the Senate conferees. However, it is significant as a first attempt to respond to the urgent recommendation of the Interstate Commerce Commission.

Other proposals which passed one house but failed in conference, included the House proposals to extend jurisdiction of the Commission over water transportation in Hawaii and over transportation to Alaska, and to grant to the Commission power to pass separately on terminal and switching charges that are a part of the through rate. From the Senate, there were instructions that the Commission should every six months make an analysis of classifications and tariffs, showing changes in through rates on all staple commodities and report annually to Congress; and from the House, that the Commission should investigate the facts and practices as to discrimination, should report concerning investigations heretofore made, and should recommend changes in existing law. The failure of these provisions in conference must have occasioned prayers of thanksgiving in the offices of the Commission.

Finally, one or two matters should be mentioned which failed of action in either house, but which must sooner or later become subjects of serious consideration. It is difficult to understand why water carriers are still exempt from control. To be sure, they still proffer the old argument that they are a competitive industry, which by its very nature is so subject to competition that regulation is unnecessary. Divine Providence, they insist, may be trusted to care for the interests of shippers by water without any aid from the Interstate Commerce Commission. But any one who has given the situation a cursory examination knows how fallacious these contentions are, to what an extent the water lines are controlled by the railroads, and how largely rates between points ostensibly competing are made by combinations between the two agencies. More power seems to be given the Commission over water carriage than ever before by its authority to make through routes to which one of the parties may be a water line. Yet, in view of the fact that water carriers are by Section 1 placed under the jurisdiction of the Act only when they are used under a "common control, management or arrangement for a continuous carriage or shipment," it is at least doubtful whether the Commission can force a water carrier against its will to become party to a through route or a joint rate. If a through route is made, and the water line becomes voluntarily a party to it and files its joint rates, the water carrier is under the jurisdiction of the Commission only with respect to business carried on these joint rates. One further extension of the jurisdiction of the Commission should be made, and water carriers should be placed under the Act along with other interstate carriers.

Lack of power on the part of the Commission to prescribe minimum rates has proved, as was predicted in 1906, to be an obstacle to the promotion of exact justice between shipping communities and between markets. This power the Commission should have.

The commodities clause stands unamended, notwithstanding the interpretation of the Supreme Court, which, while nominally sustaining its constitutionality, robbed it of all practical efficacy. The Court held that the ownership of the stock of a coal company by a railroad company did not give the latter an interest direct or indirect in the coal which was mined, neither was the carrier in violation of the clause, if, being the legal owner of the coal, it sold it before transportation began. Attempts were made, notably that of Senator Bailey, to modify the wording so that the original intent of the clause might be restored, but neither house seemed disposed to make the simple verbal change necessary to give the clause the meaning which it was supposed to have when adopted four years ago.

President Taft has received many congratulations for the success with which he has carried through his railroad policy, and doubtless he deserves great credit for the initial impulse to legislation given by his special message, and the bill which he and his advisers drafted. Likewise his influence should not be underestimated in rousing more than once the flagging interest of the Republican leaders, particularly in the Senate, and in giving final shape to many of the clauses through those frequent informal conferences of which the public knows little. Yet when we compare the Administration bill upon which

the President stood at the beginning, with the Act as passed, and when we follow carefully the course of the original bill in both houses and the debates upon it, we find that the valuable features contained in the measure as finally enacted were not written into it by the Administration, but were wrung from the Republican leaders by the persistent and able appeals of the "insurgent" element, backed by a vigorously asserted public opinion, and supported in the chamber in many cases by the votes of the Democrats. More than this: the most desirable features of the Administration bill failed of enactment altogether. It will be generally conceded that the two most important clauses in the new law are those which vitalize the long and short haul clause and which empower the Commission to suspend prospective rate changes. The first was not included in the President's bill at all, the second was so worded as to permit suspension for only sixty days, which would have been of little or no value in the case of important rate changes.

The extension of the Act to cover transmission of intelligence as well as passengers and freight, the discouragement of destructive competition against water lines, the strengthening of the penalty provisions, the establishment of the principle that a rate increased by a carrier is presumptively unreasonable, the declaration in unmistakable terms that the Commission may initiate inquiries, the legislation against divulging information concerning shipments, — all were introduced into the bill after it left the hands of the Administration, and most of them on the floor of Congress and at the instance of "insurgent" Senators and Representatives.

On the other hand, three of the most important

features of the President's bill, that authorizing agreements as to rates, that forbidding the merger of competing lines, and that authorizing federal regulation of stock and bond issues, failed. The proposal for traffic agreements passed neither house. The capitalization provisions failed in the Senate, were materially modified in the House, and came out of conference in the form of a harmless investigating Commission. The only feature of the President's bill which retained a semblance of its original form was the Commerce Court, probably the least important, certainly the least necessary portion of the Act, and even here the right of the public in proceedings against the railroads would have been seriously jeopardized if the bill had been passed as introduced. It is to the credit of men like Senators Cummins and Clapp that the procedure was so modified as to insure the shipping public adequate representation in court.

This complete transformation of the proposals of the Administration into a measure far more radical than was intended by its authors finds its explanation in the demand of the people of the country, constantly becoming more insistent, for genuine regulation of the industry upon which their very life depends. In spite of the protests of the railroads, that further tampering with their operations would react to injure the service and put a check on extension and improvement, the people have gone steadily on, not to be withstood in their determination to secure justice and equality in railway service, — and the end is not yet.

By the Acts of 1906 and 1910 they have created an administrative agency clothed with powers more extraordinary than have ever before been entrusted

to any similar body in the history of this country. The Interstate Commerce Commission has jurisdiction over all important carriers of interstate commerce in the United States, except those operating solely by water. Their rates, classifications, regulations and practices are subject to the Commission's authority either with or without complaint. Prospective rate changes may be suspended by it for ten months beyond their effective date, and if the Commission wills it, may never become effective. Its permission must be secured before a less rate can be charged for a longer than a shorter distance. At its discretion it may establish through routes and joint rates. Its orders are in force when made unless the courts set them aside, and this the courts cannot do without a hearing after notice. Finally, if present rulings are not overthrown, the courts will enforce all the Commission's orders, unless they are unconstitutional or beyond its authority. Surely the people of the United States have placed upon this Commission a grave responsibility. Upon its wisdom and justice the people rely for a successful regulation of the interstate commerce of this country.[1]

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[1] Other interstate commerce legislation enacted, under separate measures, at the last session of Congress, include an act granting authority to the Commission to investigate railroad accidents; a supplement to the safety-appliance acts requiring that cars after July 1, 1911, be equipped with sill-steps, hand-brakes, ladders and running boards; and an amendment to the employers' liability act defining the procedure and right of action.

PROPOSALS FOR STRENGTHENING THE NATIONAL BANKING SYSTEM. II [1]

SUMMARY

The bond-secured notes have not been a serious element of weakness, 634. — The present practice of paying interest on bankers' deposits, the fundamental cause of inelasticity, 637. — And also of the lack of any reserve of lending power in our banking system, 638. — Regular redemption of notes alone would not ensure elasticity, 642. — Evils which may be attributed to the bond-secured notes, 645. — A plan for the substitution of an asset currency of limited volume, 646. — Proposal for the modification of the present method of paying interest on bankers' deposits, 650. — Summary of the proposals in this and the preceding article, 654.

I

CURRENT discussion of banking reforms in the United States shows a noteworthy advance over that which followed the crisis of 1893. Attention was then concentrated upon monetary questions the solution of which was urgently required, and the defects of our credit machinery, in the absence of comprehensive analysis of its working, were too exclusively attributed to the bond-secured bank notes. As a consequence, the improvement to be derived from some other method of issue was generally exaggerated. It is now coming to be recognized that the organization of credit rather than currency arrangements is, as was recently observed by Senator Aldrich, the fundamental banking problem, both in legislation and in practice. Certainly in those countries in which checks have become a well-

[1] For the first article, see the issue of this Journal for February, 1910.

nigh universal medium of payment, bank notes, tho still a convenient instrument of credit, exercise an insignificant influence upon its organization. Experience with our own bond-secured notes affords ample and instructive confirmation of this view. It would be difficult to find any specific instance since the establishment of the national banking system when the notes have exerted an appreciable influence upon the credit structure or more than a very moderate influence upon the volume of credit granted to borrowers. Banking operations would have taken virtually the same course throughout the period even if the banks had possessed no right of issue and had only been able to extend credit in the form of deposit accounts. Some other method of issue may indeed increase somewhat the power of the banks to meet severe financial strain, but it will not remove any positive element of weakness now inherent in their organization or methods of business.

To most readers this view — of the harmlessness of the bond-secured notes — will seem to require very definite and convincing proof. For this reason it will be needful to analyze the effects of changes in the volume of circulation of the national banks since the establishment of the system. This analysis will at the same time prove to be a useful and even indispensable introduction to the discussion of the particular legislative proposals for a change in our method of issue which are to be brought forward.

Each of the short periods of severe strain through which the banks have passed since the establishment of the national system have been preceded by two much longer periods, one of depression and one of business activity and general economic advance. During these long periods every possible variety of

movement in the issues of bank notes has been witnessed. Before the crisis of 1873 the circulation had been practically stationary for some four years, and indeed that was the situation regarding the total supply of money in actual use.[1] During the ten years to 1884 there were no pronounced fluctuations, tho the tendency was slightly downward. From 1884 to 1891 circulation was rapidly retired; then came a slow upward movement which continued until 1900, followed by a far more considerable increase which has continued to the present time. Alike in periods of depression and of business activity the circulation has increased, decreased, and been stationary.

This failure of the notes to expand and contract in response to changes in business requirements has been often enough pointed out, but it has not been observed that the changes which have occurred in the volume of the notes have had practically no effect upon the condition of the banks. Throughout the entire period of some forty years and quite without reference to changes in the circulation, the banks have alternated between two well-defined situations. During years of business depression their money holdings have been well above reserve requirements everywhere except in New York. On the other hand every period of business activity has witnessed the rapid expansion of loans and consequently of deposits until the reserve ratio was brought down very close to the minimum required by law. Thereafter, throughout the remainder of each period of good times, loans and deposits have followed very

[1] The Act of July 12, 1870, provided for an addition of fifty-four million dollars to the total circulation, but this increase was almost exactly offset by the coincident retirement of the three per cent certificates which were largely held by the banks, being available for reserve purposes.

closely changes in the available supply of money in the banks. The last complete trade cycle may with advantage be taken for illustration. Aside from seasonal variations (which are of no importance for the present purpose) the New York banks at all times between 1894 and 1907 were working very close to the twenty-five per cent requirement of the law and the clearing house rule. The banks elsewhere were well above reserve requirements during the first four years of the period; then came a rapid decline in the reserve ratio notwithstanding a large increase in cash holdings. After 1901 there was no marked change in the ratio of reserve to deposits; tho it may be noted in passing that in 1902 and in 1906 it was less than in 1907, just before the crisis. During this, as well as in former periods (and, it may be added, at the present time), there has been no reserve of lending power anywhere among our banks except in years of depression, when there was the least likelihood of its being needed.

II

This unsatisfactory situation has been widely recognized and has been generally attributed to the inevitable inelasticity of the bond-secured bank notes. A careful consideration of the forces at work, however, will show that its causes lie far deeper than currency arrangements, and that they are of a nature which renders their removal a matter of the utmost difficulty.

When business is generally inactive a relatively large part of the total money supply is held by the banks, on account of reduced requirements for cash for wages and other payments commonly made in

those forms of the purchasing medium which pass readily from hand to hand. For this reason and because of the restricted demand of borrowers for loans, the banks in general have ample funds in excess of reserve requirements. In New York, however, as in the money centres of other countries, the demand for loans is at all times of practically indefinite proportions. Through the purchase of paper from note brokers and by means of stock exchange loans the New York banks can at all times fully employ their resources if they are willing to make sufficient concessions in rates to borrowers. This they are under the urgent necessity of doing as a consequence of the practice of paying interest on bankers' deposits at the fixed rate of two per cent, regardless of conditions in the loan market. To the effect of this practice is to be attributed the small surplus reserve held by the New York banks in years when the banks elsewhere find it impossible to employ all the funds which they are prepared to lend. But this practice of paying interest on bankers' deposits, as it now obtains, has other and more far-reaching consequences. It is an important cause of the failure to maintain a reserve of lending power in periods of business activity and the fundamental cause of the failure of the currency to contract in periods of depression. The bond requirement is in comparison an influence of slight moment. It is commonly believed that the banks make every effort to keep out their notes simply because they have been obliged to lock up slightly more than their equivalent in government bonds yielding a low rate of return. This is indeed one influence at work, but by no means the only one. Even tho this obstacle were removed through the substitution of some form of asset currency, interest

on bankers' deposits would still prove an inducement sufficiently strong to prevent contraction. And further: it is this practice which makes it possible to keep out the bond-secured notes in periods of depression. Were it discontinued the banks would be utterly unable to prevent contraction, however strong their disinclination might be.

During periods of inactive trade the amount of bank notes sent to Washington for redemption invariably reaches large proportions.[1] The city banks are chiefly responsible for this movement. Something like half the notes are sent in by the New York banks alone, which, when rates for call loans are persistently below two per cent, are naturally desirous of reducing bankers' balances swollen by the receipt of idle funds from all quarters. But the redemption of the notes does not secure contraction. All the banks,— more particularly the country banks and those of the smaller cities, — make haste to re-issue notes, thus setting free an equivalent amount of money, which in the absence of local demand is shipped to the money centres for the sake of the interest to be had from the city banks. There is a sort of endless chain, the working of which can only be interrupted by the discontinuance of the present practice of paying interest on bankers' deposits. Were that inducement removed, our bond-secured notes would prove to be susceptible to a considerable measure of contraction. Even if the banks continued to re-issue their notes as regularly as at present, contraction would still take place. An equivalent amount of money would be locked up in the banks, since they would reap no advantage

[1] During the year ending with October, 1907, national bank notes to the amount of only $257,000,000 were sent to Washington for redemption. In 1908 the total reached $382,000,000 and for the year ending with October, 1909, it was $489,000,000.

from sending it to the money centres. Moreover, even if it were sent thither the pressure on city banks to force a demand for loans by the offer of low rates would be removed and they would doubtless maintain a higher reserve level.

This consequence of the payment of interest on deposits is quite independent of any particular conditions upon which the right of issue may be made to depend. If, for example, notes could have been issued during the last three years without any bond requirement, there is every reason to believe that something like the present volume of notes would be in circulation. The same possibility of keeping the notes out would have been present, and the inducement, tho slightly less urgent, would have been quite sufficient for the purpose. Finally, it may be noted that even if the banks had possessed no right of issue whatever, the situation would not have been essentially different. The aggregate supply of money in the country would then have been somewhat smaller, tho not by the full amount of the notes, since there would have been a somewhat greater amount of gold within the country. Only such slight accumulation of funds as may be due to this difference in the total money supply can be properly attributed to the system of note issue.

This failure of the currency to contract during periods of inactive business is after all a comparatively unimportant matter. At such times serious difficulties are not likely to appear under any banking system, however imperfect. A certain amount of unnecessary and unhealthy speculative activity on the stock exchange is indeed made possible, but its results, tho unfortunate to many individuals, are not serious enough to deserve much public concern.

Turning now to periods of trade activity, we shall find that here also none of the serious imperfections in our banking system are to be attributed to the bond-secured notes. At the outset loans everywhere are increased, except in New York, where there is at no time any considerable margin of idle credit. Indeed, the loan account of the New York banks is rather more likely to be reduced than to increase. Outside banks withdraw money to meet local requirements, and as rates advance purchase paper more liberally from note brokers. A considerable number of banks also, especially those of the other cities, lend in the New York call loan market as soon as rates rise well above the two per cent return on balances.[1] Unless checked by premature trade reaction the general expansion of loans has always continued until the banks reached the limits set by the reserve requirements of the law. When periods of business activity happened to coincide with those in which the total money supply of the country was increasing, the upward movement of loans was particularly prolonged and considerable, since the banks always acquired some share in the increased stock of money. The taking out of additional circulation has therefore at times contributed to the enlargement of the foundation for credit expansion, but, owing to the limited supply of government bonds, prices have always responded to any widespread demand on the part of the banks, thus automatically checking any very considerable expansion in the issues of the notes. Moreover, even tho the expansion of loans has in some measure been made possible through the increase of the notes, it has not been in

[1] Between January, 1908, and August, 1909, the loans of the New York banks increased from $1,126,000,000 to $1,333,000,000, but during the following eight months to May, 1910, they were reduced to $1,183,000,000.

the slightest degree a result of any peculiar quality possessed by the notes on account of the bond requirement. Notes issued under quite different conditions would have had precisely the same effects if issued in equal quantity, and there is every reason to suppose that they would have been issued in even greater quantity. If, for example, the banks had been allowed to issue an asset currency, and the limit on the total issue had been above the amount of bond-secured notes actually put out by the banks, it is demonstrably certain that the volume of notes and consequently the amount of credit granted to borrowers would have been greater during each of our successive periods of business activity.

No system of redemption, however regular, can check the expansion of credit either in the form of notes or of deposits when the loans of the banks are being generally increased. The demand for loans and the willingness of the banks to lend are the sole determining factors so long as public confidence remains undisturbed. The redemption of such credit instruments as checks and drafts is certainly speedy and continuous, but it does not serve to prevent the expansion of credit in the form of deposits when all the banks are increasing their loans. It does restrict the expanding of credit by a single bank or by the banks of a single locality, at least when borrowers use the proceeds of loans to make purchases at a distance; but when all the banks of the country are in question regular redemption simply means larger exchanges of credit instruments between the banks, either directly or through clearing houses. Exactly the same results will follow the regular redemption of bank notes, with the further qualification that the additional money always

required when employment is regular and wages are high could be provided by the banks by means of notes. The banks would then be shielded from one cause of reserve loss, and would thus be able to increase loans still further before reaching the legal minimum.

If the banks had had the power to issue as an asset currency an amount of notes greater than that of the bond-secured notes which have been actually in circulation, it is certain that this right would have been exercised long before the close of each of the successive periods of business activity during the last forty years. The loans of the banks have always kept pace with increases in money holdings, even when these were being rapidly enlarged. Thus between 1897 and 1907 the cash holdings of the banks increased from $388,000,000, to $701,000,000, but the expansion of loans and consequently of deposits was even more considerable, so that the reserve ratio at the end of the period was far less than at its beginning. That additional loans would have been willingly absorbed by borrowers is also clear. In this country of enterprising population and vast undeveloped resources the demand for loans is of practically indefinite proportions, except during years of extreme depression. On the other hand, it would hardly be maintained that the healthy progress of this country has at any time suffered from inadequate credit expansion; not infrequently the reverse has been true.

It is extremely doubtful also whether under any feasible plan of asset currency there would be any considerable quantity of notes available for emergency purposes. Some limit on the amount which might be issued by the individual banks would be a necessary feature of the safeguards designed to

protect note holders from loss. Assuming that this limit would not be dangerously high, it is possible and even probable that in the course of a long period of almost uninterrupted prosperity, such as that between 1897 and 1907, most of the banks would have issued their entire quota. A few banks managed with unusual foresight might perhaps retain their notes for emergencies, but at the best the asset currency would be likely to prove a resource of very limited value in time of crisis.

For somewhat analogous reasons no change in the method of issue can be relied upon to enable the banks to meet seasonal requirements for currency, such as those for crop moving purposes. During the period (which might extend over a number of years) taken to expand the circulation to the limits fixed by law, no difficulties would be experienced. The situation would resemble that during years of inactive business in the past. Crop moving needs have at such times been met without difficulty, because the banks had ample funds in excess of reserve requirements. But after the banks had put out all their notes there would be a renewal of the difficulties with which we have been made familiar in the past. Temporarily idle funds would be attracted to the money centres by the interest to be secured for bankers' deposits. The winter and summer months would witness a plethora of money in New York while moderate withdrawals in the early spring and more considerable withdrawals in the autumn would again become a characteristic disturbing factor in our banking operations. The necessity of fully employing the funds secured through interest on deposits would continue to prevent the maintenance anywhere in our system of any reserve of lending

power. This fundamental cause of weakness would be practically certain to wreck hopes of improvement from changes in our system of issue alone.

Why then, it may be asked, make any change, if the bond-secured notes have done so little positive harm, if slight improvement is to be gained and positive danger may be incurred by a change of system? The answer is two-fold. In the first place, even tho the bond-secured notes have never been issued in such quantities as to cause serious trouble, there is at least a possibility that they may have that effect in the future. If the government should be obliged to put out a large issue of bonds, the basis for a further and possibly excessive issue of notes would be provided. In the second place, it is undesirable that the bond policy of the government should be hampered by considerations of the effect of the purchase or sale of its securities upon the circulating medium. With the note issue entirely disassociated from the bonds the independent Treasury might easily be made a far less disturbing factor in the money market than it has often unavoidably been in the past. When, as at present, the Treasury has merely a working balance, it is a comparatively harmless institution. It is only when there has been a large surplus that its influence has been baneful. Between 1901 and 1907 the government surplus would doubtless have been expended in the purchase of bonds, if that could have been done without depriving the banks of the basis of their circulation. The unhealthy intervention of the Secretary of the Treasury in the money market would have been happily unnecessary.

The simplest way to remove the danger of an over-issue of the bond-secured notes and also to minimize

the defects of the independent Treasury system would be to deprive the banks of the right of issue altogether. But there are economic reasons of weight against so drastic a remedy, and practical difficulties of a political nature would seem to be insurmountable. It would be necessary, in common fairness to the banks, to increase the rate of interest on the two per cent government bonds by at least one per cent, so that they might be disposed of to investors without loss. Further, if the notes were retired, their place would be taken by nearly an equivalent amount of gold; thereby only could the level of prices in this country be maintained in that relation to prices elsewhere which our international trade conditions have established. A costly medium of payment (gold) would have to be substituted for an inexpensive medium (bank notes). If the gold foundation of our monetary fabric were inadequate there would be good reason for such a change; but the amount of gold in the country is now ample for every purpose, and is certain to be enlarged as a result of increasing gold production, unless a great increase is made in some of the other kinds of money now in circulation. For these reasons it would seem inexpedient to deprive the banks of the right of issue, unless it should prove impossible to devise currency arrangements free from dangers of their own and without the defects inherent in the bond-secured notes.

III

With such distinctly moderate objects in view, the following proposals for an asset currency are submitted. It must be repeated, however, that no material strengthening of our banking system is

to be expected while the present practice of paying interest on bankers' deposits continues.

Certain provisions necessary to protect note holders from loss have been made so familiar in previous discussions of an asset currency that they require no detailed consideration. The necessity that the notes should be made a prior lien on assets is everywhere recognized. In addition, a guarantee fund of five per cent is essential, not so much to protect note holders from ultimate loss as to prevent the discount on the notes of failed banks which would appear if payment were deferred until assets could be liquidated. But both the prior lien and the guarantee fund would have most undesirable consequences if no limits were placed upon the amount of notes which the individual banks might issue. It would be unfair to the depositor that his bank should be permitted to extend an indefinite amount of credit in a form which would have a preference in the distribution of assets. Moreover, if the note issue were equal to a considerable portion of the total assets, failures might subject the guarantee fund to heavy losses, the burden of which would fall upon the other banks.

It has commonly been proposed, therefore, that an asset currency should be limited to the capital of the banks. But this limit would permit at once the very large increase of nearly three hundred million dollars over the amount of notes now in circulation. Moreover, in the case of some banks, especially those of small size and those of recent origin, it would permit an issue dangerously large in proportion to total assets. For reasons already mentioned it does not seem desirable to grant the banks as a whole a power of issue which would make possible any im-

mediate increase in the volume of notes. If the right of issue were limited to seventy per cent of the capital of the banks it would permit an issue almost exactly the same as that which we have at present. A far better basis for limitation of issue, however, is the capital and surplus of the banks. Measured in this way, the ratio would be not seventy per cent on capital, but forty per cent on capital and surplus. It would be far better to take capital and surplus rather than capital alone, because surplus usually increases with the life and growth of business of the banks. The assets of such banks are likely to be large with reference to the liability of share holders. Forty per cent of capital and surplus, therefore, is likely to be a smaller portion of the total assets of the banks than seventy per cent of capital, and consequently there is less likelihood that in case of failure the resources of a bank would prove insufficient to meet the notes. As a further precaution no bank should be granted the right of issue until after it had been in business for some two or three years, long enough to test the character of its management.

Finally, since the notes would be a form of credit pure and simple, they should be protected by the same ratio of reserve that is required against deposits, thus restoring a provision of the National Banking Law which was repealed, by inadvertence rather than by intent, in 1874.[1] This requirement would

[1] The Act of June 20, 1874, as passed was a fragment of a far more comprehensive measure relating both to banking and the greenbacks. The banks were to be required to hold all of their reserves in vault, but as a partial offset, the five per cent redemption fund authorized by the act was made available for reserve purposes, and no reserve was required against circulation. In conference the last two provisions were retained, altho the requirement with which they had been associated, while the bill was being passed through the two Houses, — namely, that the banks should hold all their reserves, — was deleted in deference to hostility to contraction. For further details, see the writer's History of Crises under the National Banking System, pp. 105–107.

tie up a certain amount of money in reserves, but as the banks would probably convert some part of their undivided profits into surplus in order to be able to take out additional circulation, no contraction in the money in actual use would be likely to result.

There remains for consideration one further provision necessary to complete this proposal for a change in our method of note issue. The bond-secured notes are taxed either one or one-half of one per cent, according to the issues of bonds which have been deposited as security by the banks. Notes issued under the conditions which have just been outlined could easily bear the heavier burden of a two per cent tax. By this simple means revenue more than sufficient to place the two per cent government bonds on an investment basis would be provided without increasing the burdens of general taxation.

Notes issued under these conditions would provide an absolutely safe circulating medium. Note holders could not by any possibility suffer loss, and while there would be room for slow growth along with that of the capital and surplus of the banks, the danger of over-issue would be wholly eliminated. If it should be found that these notes were kept out as persistently as the bond-secured notes, no new element of weakness would be introduced, and some of the disadvantages of the present system would be removed. It would be no small gain to have severed the entangling alliance between government bonds and currency. Moreover, it should be observed that the proposed issue is of a nature to permit without difficulty such further modifications as experience with its working may suggest. It is indeed unlikely that the policy of holding notes in reserve to meet seasonal or emergency requirements would be adopted

by a sufficient number of the banks to make the notes an elastic medium. If, however, this should prove happily a mistaken prediction, the amount of notes which each bank might issue could be made greater without difficulty, and to the general advantage.

It would be a simple matter also to grant the banks the power to issue an additional heavily taxed circulation upon terms which would make certain that it would be exercised only in emergencies. From what has been said on previous pages, it would seem to follow that so long as the present practice of paying interest on bankers' deposits continues, a currency to meet extraordinary occasions can only be secured in this way. But against an emergency circulation of any kind lies the serious objection that it would weaken still further the already inadequate influences tending to restrain excessive credit expansion in periods of active business. It is to be feared that bankers would rely too exclusively upon the taxed notes, and that, altho they might do something to ameliorate financial disturbances, they would increase rather than diminish the likelihood of their occurrence.

IV

An asset currency such as has been outlined above would without doubt have the desired quality of elasticity, if the payment of interest on bankers' deposits were entirely discontinued. Thirty or more years ago there was a very widespread sentiment among bankers against the practice, but any proposal for its discontinuance would now meet with violent and general opposition, and its adoption could only be secured through legal enactment. Moreover, however effective for the purpose, so

drastic a remedy would have other consequences which make its adoption not only inexpedient, but also upon the whole undesirable.

If banking in this country were conducted by a few hundred banks, each having numerous branches, loanable funds would be readily transferred from place to place in response to variations in the requirements of borrowers. No payments for bankers' deposits would be needed for the purpose, and they would be contrary to the interests of the several banks. But with our numerous independent local banks, that inducement is requisite to secure even the imperfect utilization of such funds of the several banks as may be in excess of local requirements. Tho motives of business convenience would in any case lead the banks to keep some balances with the banks of the money centres, their amount would be insignificant in comparison with that which has been secured through the offer of interest. These balances are undesirably large, as was pointed out in the first part of this article; but they should be reduced by measures which would enable the banks to employ safely additional funds at home at more profitable rates than the two per cent received from the city banks. The extreme remedy of a complete prohibition of interest on bankers' deposits would be a hardship to all classes of banks, and would involve the wasteful locking up of funds in the vaults of each of the many thousands of banks in the country outside the money centres. Doubtless the individual banks would lend directly a larger portion of their funds than at present, but in so doing, they would probably be tempted into making undesirable loans at home, and greater investments in the loan markets of New York and of the other large cities.

The utilization of the entire resources of the banks is not consistent with absolute safety under any system, because of the need of some reserve of lending power to meet emergencies. But only as a last resort should a measure be adopted which would prove an insurmountable obstacle to the employment by some banks of the more or less permanent surplus funds of other banks through deposits with city agents. Fortunately the ill effects of the present method of paying interest on such deposits can be diminished, if not entirely removed, without entailing any undesirable curtailment of the employment of banking resources. It is not necessary in order to make conditions favorable to an elastic currency that the city banks should hold no bankers' balances, or only those required in connection with the domestic exchanges. It is only necessary to prevent the movement to and from the money centres of the temporarily idle funds of the country banks, those which will be certainly needed by them after a very short interval. The present method of paying interest on bankers' deposits gives the city banks a highly irregular lending power which is of advantage neither to them nor to the community, because there are no variations in business requirements which coincide with the seasonal variations in the amount of funds at the disposal of the city banks. If there were an end to temporary accessions of funds from the country in the winter and early summer months, the average as well as the maximum loan account of the city banks would indeed be somewhat reduced, but it is probable that profits would not be diminished to any appreciable extent. It is even possible that they would be increased, since rates for loans, especially the call loan rate,

would be maintained at a higher level, and the interest to be paid outside banks would be reduced.

A very simple modification of the present practice of paying interest on bankers' deposits would do much to check this unhealthy seasonal movement of money in and out of the money centres. It is only necessary that instead of daily balances, the minimum balance kept in the course of a considerable period be taken as the basis for reckoning the interest to be paid to depositing banks. This period should be one of sufficient length to cover an entire movement of money in and out of the banks. Six months would seem to be the most natural and effective term for the accomplishment of the purpose in view. This method of reckoning interest would clearly be of advantage to the city banks, and would tend to greater stability in dealings upon the stock exchange. It would also give elasticity to the currency, because the country banks could then gain no advantage from keeping out all of their notes at all times. That practice would only succeed in building up balances with city banks which could not be maintained for the entire six months' period. The return received by the country banks would indeed be somewhat diminished, but not beyond what was expedient for them and for the community. There would, however, be reasonable ground for complaint in particular cases if the interest return were to be reckoned upon the basis of the minimum balance during a six month period. The course of payments may momentarily bring down the balance of a country bank with a city agent to an abnormally low point, and a considerable reduction of the interest return owing to such a chance occurrence would be obviously inequitable. To meet this situa-

tion, the basis of interest should be the minimum weekly, fortnightly, or even monthly balance during the period of six months.

On account of the very slight change proposed in present practice regarding interest on bankers' deposits, its fundamental importance is perhaps in danger of being overlooked. To the writer it promises more far-reaching results than any of the other proposals with which this paper and that which preceded have been concerned. Only in case some such change is made does it seem possible to secure an elastic currency by the substitution of an asset note issue for our bond-secured notes. By its means some reserve of lending power will be ensured, and at the same time the character of banking operations in ordinary times will be influenced for the better. Remove the accumulation of temporarily idle funds from the city banks, and the call loan may perchance lose some of that false glamour of liquidness which has been perhaps the greatest bane to sound banking in this country. Within narrow limits it is of course true that no other kind of loan can be liquidated so quickly. For this reason it has been especially well suited to the employment of funds only momentarily in the possession of the banks. But the easy facility with which such loans can be slightly increased or diminished has probably contributed more than anything else to foster a trust in the indefinite liquidness of call loans which every emergency in our history has shown to be absolutely without foundation.

Let me now summarize the series of proposals which have been brought forward in this and the preceding paper. The establishment of true savings departments by the national banks, with seg-

regated deposits payable at notice, which might be invested in mortgages, was advocated as a means of enabling the banks to employ a greater part of their funds at home. Some diminution in the amount of the balances in the banks of the money centres would follow, thus reducing the strain upon them in emergencies. Further, as the present reserve against deposits could be safely reduced upon those demand deposits which would be converted into time deposits, the money thus set free would enable the banks to increase the ratio of reserve against their remaining demand deposits. A cash reserve of ten per cent was accordingly suggested for country banks. As a further means of strengthening reserves, a plan for two classes of banks, local banks and reserve agent banks, was outlined to take the place of the present three classes. Both classes of banks might be established anywhere, but those choosing to become reserve agent banks would be required to have a minimum capital of five hundred thousand dollars, and would be obliged to carry a cash reserve of twenty-five per cent. Provisions to render more certain the use of reserves in emergencies were then outlined. The banks should be allowed to go below reserve requirements upon the payment of a fine, sufficiently onerous to ensure the maintenance of reserves in normal times, but not so high as to prevent their use when really needed. In addition, it was urged as absolutely necessary that reserves should be pooled or equalized, whenever clearing house loan certificates are issued, in order to prevent that working at cross purposes among the banks, which has been the principal cause of suspension of cash payments in the past.

The proposal for an asset currency made in the

present paper is so framed as to ensure safety, and a very moderate increase in the total circulation in the future. In itself it is not expected to strengthen our banking system materially; but by securing the separation of the circulating medium from the government bonds, it would enable the government to avoid the accumulation of a large surplus in the Treasury in the future. The change in note issue, however, if accompanied with the proposed modification of the present practice of paying interest on bankers' deposits by the city banks would give a considerable degree of elasticity to the currency.

At the outset the opinion was expressed that a central bank was at best a doubtful remedy for our financial ills, and that less revolutionary means gave more certain promise of improvement. Some readers, I hope, will have found the proposals which I have brought forward adequate for the purpose. But even to those who are convinced that only by means of a central organization of some kind can the fundamental defects in our system be removed, these proposals should not be unwelcome.[1] Their adoption would create no obstructions to the establishment of a central bank, and most of them would clearly tend to increase the likelihood of successful results from its operation. The establishment of savings departments by the national banks, in so far as it would strengthen our system as a whole, would lessen the calls upon the central bank for assistance in emergencies. Similarly, the proposals designed to strengthen the reserves of the banks, and to render them more willing to make use of them, could not fail to lighten the burden upon the central institution.

[1] It is significant that the proposals of some of the most earnest opponents of a central bank of the European type, such as Congressman C. N. Fowler and Mr. Victor Morawetz, include provision for the centralized control of our banking system.

Some of the plans for a central bank do indeed provide for the concentration of the entire banking reserve of the country, but so complete a reversal of existing practice would seem to be altogether unlikely to secure general favor. The requirement that reserves be equalized when clearing house loan certificates are issued would probably be found unnecessary if a central bank were established. It is essential to the successful working of a central bank that clearing house balances, at least in the important cities, be settled through transfers on its books. Clearing house loan certificates, therefore, would become unnecessary, and consequently also the equalization of reserves. The proposal regarding note issue would not be inimical to a central bank plan, but rather the reverse. It would not be an obstacle to the grant to the central bank of a special privilege of issue, a right that might well prove more advantageous than a complete monopoly of this power. The bank would be relieved of the burden of taking care of the bonds now held by the banks against circulation. Moreover, it would make it far more easy for its management to resist the pressure for accommodation when for any reason the further expansion of credit should be deemed inadvisable. Finally, the proposal regarding interest on bankers' deposits loses nothing of its importance. Indeed, its importance is perhaps enhanced. The most difficult problem which confronts central banks, and the one which they have to face most frequently, is the control or restraint of the central money markets in the various countries in which they have been established. To exert any effective restraining power over the credit situation in New York would certainly be more frequently necessary, and more dif-

ficult to accomplish, if the other banks continued to receive large temporary accessions of funds from outside banks.

In the issue of this Journal, for May, 1909, I set forth at length the peculiar difficulties with which a central bank would be confronted in this country. Primarily on account of the absence of branch banking, it was contended that methods which had proved effective in European countries were not certain to have similar results with us. It has now become more generally recognized that if our banking system is to be strengthened by means of a central bank, the character of its operations, far more than the form of organization, must be carefully worked out, and that while European central banks may furnish valuable suggestive material, they cannot serve as models to be more or less exactly reproduced. On the other hand, the proposal to establish a central bank, or at least some kind of centralized authority, has been received with far greater favor than most persons familiar with our financial history would have anticipated. Some of the objections raised in my earlier article have been met in the subsequent discussion of the subject, but the various plans which have been brought forward are not free from those of most serious import. There is also a common tendency to rely wholly upon a central bank to remove the defects in our banking system. But since the effects of the operations of such a bank in this country are more or less uncertain, it would seem to be the part of wisdom as a preliminary measure to strengthen our system by the adoption of such other changes as are not incompatible with the operations of a central bank. The burden placed upon it at the outset should be made light, and its activ-

ities should be allowed to develop themselves along lines which experience with its working may suggest. With these modest purposes in view, it is my intention in a subsequent paper to return to the consideration of the central bank problem. I shall attempt to suggest a plan for a central bank or central organization with limited functions and responsibilities, which will meet the difficulties which have impressed me perhaps more strongly than other writers upon this important subject.

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COMPULSORY ARBITRATION IN NEW ZEALAND [1]

SUMMARY

New Zealand not prosperous from 1879 to 1895. Conditions under which the arbitration act was passed in 1894. Mr. Reeves its author, 661. — Increase of associations and unions, 669. — Conciliation expected to be sufficient, but compulsory arbitration in fact resorted to, 672. — "Contract superseded by status," 673. — Agricultural laborers not affected, 675. — Minimum wages and their influence on efficiency, 678. — Preference to unionists, 679. — "Fair wages" and the "living wage," 683. — Rigidity of wages, and the inefficient employer, 686. — Uncertain whether workers' welfare has been in fact advanced, 687. — Influence on manufacturers and on cost of production; other factors affecting them, 689. — Opinion of employers and workmen, 692. — Amendment act of 1908 due to dissatisfaction among laborers, 693. — Strikes in 1906–1908, 695. — Peculiar case among miners, 697, and in the state collieries, 701. — Provisions of the amendment act of 1908, 704. — Voluntary arbitration again sought to be encouraged, 706. — Workers may evade the act altogether by the device of cancelling registration, 707. — Its future still uncertain.

With the exception of a few brief intervals of prosperity, times were hard in New Zealand from 1879 to 1895. The population of the colony increased considerably, but through an excess of births over deaths rather than an excess of immigration over emigration. From 1885 to 1891 there was an excess of emigration over immigration of about 20,000. This was the so-called "soup-kitchen period," when wages were low, when there were many unemployed, and when able-bodied men received aid from public and private funds. In 1889 it was alleged that

[1] The writers desire to acknowledge their indebtedness to Mr. John MacGregor, of Dunedin, for important suggestions and criticism.

sweating existed in Dunedin and elsewhere, especially in the clothing trade, and a commission of nine members was appointed to investigate the matter. Six of the commissioners found no sweating in the colony, while a minority of three reported that it existed, "although only to a limited extent." One result of the investigation was the passage of the Factories Act, 1891, designed chiefly for the protection of women and children employed in factories. Another result of this and other causes was the compulsory arbitration law of 1894, designed chiefly to prevent strikes, but also to encourage organization and improve the conditions of labor.

In the year 1890 occurred the great maritime strike, which arose in Australia and soon spread to New Zealand, beginning in August and lasting until the first week in November. This, the only serious strike that the colony had ever had, made so profound an impression on the public mind that people were ready to listen to suggestions looking toward the prevention of such evils. The suggestion of compulsory arbitration came from the side of the laborers, who, beaten in the strike, looked to the State to do for them what they had been unable to do for themselves.[1] The Seamen's Union and other labor organizations took an active part in the political campaign of 1890, helped to win victory for the Liberal Party in the election of December 5, and strongly supported the labor legislation which followed, including the compulsory arbitration law. The author of that law was the Hon. William Pember Reeves, Minister of Labor in the Ballance Government.

It is impossible to say who first suggested compulsory arbitration as a remedy for strikes. The thought

[1] Parliamentary Debates, vol. lxxviii, p. 161.

must have occurred to many minds during the trying times of 1890. Even before the strike, Mr. J. A. Millar, then secretary of the Seamen's Union and of the Tailoresses' Union, giving evidence before the Sweating Commission, said: "As to arbitration, my idea is that a competent judge should be appointed by the Government in the same way as the judge of any court, and that he should call evidence on both sides. I mean a permanent judge, who should be paid by the State for the settlement of these disputes; because it is in the interests of the State that no such disputes should exist. I would have this judge assisted by three representatives of each side, who should call evidence, and the decision of the judge should be binding on both parties for a certain time — say, six months. If workmen refuse to obey the court, pressure should be brought to bear upon them by their societies."[1] Later in the year, Mr. W. Downie Stewart, Sr., brought in a bill called the "Strikes and Board of Conciliation Bill," based on the voluntary principle. Compulsory arbitration was suggested in committee, but was strongly opposed by Grey and Ballance.[2]

None the less, the passage of the compulsory arbitration law of 1894 was due to the enthusiastic efforts of Mr. Reeves, supported by the labor leaders. The bill was first drafted in 1891, but did not become law until the end of the session of 1894, after it had been passed three times by the House and rejected twice by the Council because of its compulsory features. The purpose of Mr. Reeves was two-fold. He says: "What the act was primarily passed to do

[1] Parliamentary Debates, vol. cxlv, p. 188.

[2] Parliamentary Debates, vol. lxxviii, pp. 116, 166, 411.

was to put an end to the larger and more dangerous class of strikes and lock-outs. The second object of the act's framer was to set up tribunals to regulate the conditions of labor." [1] Mr. Reeves' chief idea was to prevent strikes, and a great deal more was said in Parliament about industrial peace than about the improvement in the conditions of labor which the act was to bring about. But there can be little doubt that the unionists, without whose help the act could not have been passed, thought more of the latter than of the former result, and looked upon the act as an important part of the new legislation for the benefit of the working class.[2]

Mr. Reeves considered the compulsory feature essential to the successful working of the law. He thought the Massachusetts system of arbitration almost ideal, except that it was voluntary and not compulsory.[3] In an interesting discussion in the House on September 16, 1892, Sir John Hall strongly attacked the compulsory features of the bill, saying that they were opposed to conciliation, were designed to force the workers to join the unions, and should be condemned as class legislation, which would tend not to the reconciliation of classes but to their estrangement. Mr. John Duthie condemned it as a piece of amateur legislation which would have a serious effect in checking enterprise and the investment of capital. Mr. Harkness said that the bill was drafted wholly in the interests of unionism. Mr. James Allen said that the workers would gain nothing by compulsory arbitration. Mr. Fergus accused the advo-

[1] Reeves, State Experiments in Australia and New Zealand, vol. ii, p. 135; Parliamentary Debates, vol. lxxix, p. 379; vol. cxlv, p. 208.

[2] Parliamentary Debates, vol. lxxviii, p. 185.

[3] Broadhead, State Regulation of Labor and Labor Disputes in New Zealand, p. 8.

cates of the bill of being demagogs. Some days later, in the Council, Mr. W. Downie Stewart strongly opposed the bill on the ground that it would tend to encourage disputes, that awards would be hard to enforce, and that business affairs were too complicated to admit of a fair decision by any court. In view of later events some of these comments seem prophetic.[1]

The bill was not adequately considered, either by its friends or its opponents. Mr. Reeves says: "During the three years and a half in which its fate was in suspense, it neither roused the least enthusiasm nor attracted much attention. Only the trade union leaders studied its provisions, decided to support it, and did so without flinching." Mr. Reeves admitted that it was a piece of experimental legislation. "Frankly," he said, "the bill is but an experiment, but it is an experiment well worth the trying. Try it, and if it fail, repeal it." [2] The Minister of Labor had set his heart on the bill; it had the support of the government; and, despite the opposition of a minority representing the business interests of the colony, it was finally put through, and received the assent of the Governor on August 31, 1894.

The act of 1894 was entitled: "An act to encourage the formation of industrial unions and associations and to facilitate the settlement of industrial disputes by conciliation and arbitration." By the amendment of 1898 the words, "to encourage the formation of industrial unions and associations," were left out. The act came into force on January 1, 1895, and the first case was decided toward the end of the year. Mr. Reeves left the Colony in 1896, to become Agent-

[1] Parliamentary Debates, vol. lxxviii, pp. 151–186, 405–416.

[2] Reeves, op. cit., vol. ii, p. 107.

General for New Zealand in London, afterwards High Commissioner, a post which he resigned in 1908 to become Director of the London School of Economics. Being absent from the Colony, he had little to do with the development of the act, which was amended almost every year as difficulties arose which the author could not have foreseen. The original act and the various amendments were united into a Compilation Act in 1905, amended again in the same year, and yet again in 1906. The latest and most important amendment was made in 1908.[1]

The act as it stood in 1905 has been described so often that only a brief account of it is here given, with attention to some points not usually mentioned. An excellent summary is given in Broadhead's *State Regulation of Labor in New Zealand*, Chapter 3.

The act provides for the registration of industrial unions and associations of either employers or workers with the Secretary for Labor. As few as two employers or one firm with two members may form a union, but, in the case of workers, seven are required.[2] The effect of registration is to make a union, or an association of unions, a body corporate, and renders both the union and its members subject to the jurisdiction of the Conciliation Board and the Arbitration Court. Any industrial union may apply to the Registrar at any time for the cancellation of its registration, but such cancellation does not relieve the union or any of its members from the obligation of any industrial agreement or award in force at the

[1] Industrial Conciliation and Arbitration Acts Compilation Act, 1905; The Industrial Conciliation and Arbitration Amendment Act, 1908.

[2] By the amendment act of 1908, the number of persons necessary to register an individual union was increased from two to three in the case of employers, and from seven to fifteen in the case of workers.

time, nor from any penalty or liability. The cancellation of registration on the part of an industrial union of workers removes it from the jurisdiction of the Board and the Court. But employers cannot thus escape. Arbitration, then, is in a sense voluntary for the workers but compulsory for the employers.

The colony is divided into eight industrial districts, in each of which there is a clerk of awards, appointed by the Governor. In every industrial district there is a Board of Conciliation for the settlement of disputes arising within the district. The Board consists of three or five members, one or two being elected by the industrial unions of employers, an equal number by the industrial unions of workers, and the third or fifth, as the case may be, elected by the other members. The Amendment Act of 1908 abolished the Board of Conciliation and provided for Councils of Conciliation to take their place.

An industrial dispute can be brought before a board through the clerk of awards by a trade union, industrial union, industrial association, or employer. If a settlement is arrived at by the parties, it is set forth in an industrial agreement. Otherwise the Board makes a recommendation for the settlement of the dispute, which becomes enforceable as an industrial agreement unless the dispute is referred to the Arbitration Court within one month.

Before the year 1901, a case referred to a board had to be heard by that body before it could go to the Arbitration Court, but in that year an amendment was passed permitting either party, after going through the formality of filing the dispute with the Board, to refer the matter to the Court, without any hearing by the Board or any agreement or recommendation. The old rule was re-established in 1908.

A neglected clause of the act provides for the creation of a special board of conciliators composed of experts in the particular trade to which a dispute relates, elected in equal numbers by the employers and the unions of workers concerned, and vacating their office on the settlement of the dispute. Oddly enough, such a board has been set up only once, in the case of the strike of tramway employees in Auckland in May, 1908. The new conciliation councils established by the act of 1908 are very similar to these special boards.

There is one Court of Arbitration for the whole of New Zealand. It consists of three members appointed by the Governor: a president, who has the status of a judge of the Supreme Court, and two other members, often called assistants or assessors. One of the assessors is appointed on the recommendation of the industrial unions of employers, the other on the recommendation of the industrial unions of workers. By an amendment passed in 1906, the title of "President of the Court" was altered to "Judge of the Court." Since the assessors are inclined to be partisan, the decision is virtually in the hands of the judge.

The Court may limit the operation of any award to any city, town or other part of an industrial district; or, on the application of any of the parties, it may extend the provisions of an award to another industrial district. Thus, a number of awards have been extended so as to apply to the whole of the North Island, and some have been given a still wider extension. Extension of awards is usually granted at the request of employers to prevent unfair competition on the part of their rivals in business.

Every award binds not only workers' unions but also individual workers, whether members of unions

or not, working for any employer on whom the award is binding, and if any such worker commits any breach of award he is liable to a fine not exceeding £10. Before the year 1900 only workers' unions were liable for breach of award. In that year non-unionists were made liable, and, by the amendment of 1905, individual unionists also were made liable. Unions of employers, unions of workers, and individual employers are liable to fines not exceeding £500, but individual workers are liable to an amount not exceeding £10.

Mr. John MacGregor has drawn attention to a curious state of affairs existing from 1898 to 1905, when a strike or a lock-out, altho it might be a dispute, was not a breach of award and could not be punished under the act. Under the act as drawn up by Mr. Reeves, the Court could declare a strike or a lock-out to be a breach of award, but in 1898 the act was amended with the result as stated. Referring to these years, Mr. MacGregor says: "An employer who pays, or a worker who accepts, less than the minimum wage thereby commits a breach of award; but, if all the men employed in a factory at the minimum wage were to refuse some morning to resume work, except at a higher wage, they would not be committing a breach, because the Court can not order any man to work for the minimum." Strikes and lock-outs were made statutory offences by the amendment of 1905, which prescribed fines not exceeding £100 in the case of a union, association, or employer, or £10 in the case of a worker. Under this law a large number of strikers have been punished in the past three years.

Fines may be recovered in a summary way under the provisions of the Justices of the Peace Act, 1882,

and all property belonging to the judgment debtor may be seized and sold for the satisfaction of the debt. Where the property of a union or association is insufficient to pay the fine, the members are liable to an amount not exceeding £10 for each person. If individuals (employers or workers), alleging that they have no property, refuse to pay the fine, at the discretion of the Court they may be ordered to pay, after which, if they still refuse, they may be imprisoned for contempt. However, imprisonment has never been inflicted for this offence, and, under the act of 1908, it is no longer permitted.

By the act of 1905, all fines were made payable into the public account. Before this time fines levied upon employers were paid into the treasury of the workers' unions, a practice tending to multiply disputes and encourage other abuses.

As intended by its author, the act has greatly encouraged the formation of industrial unions and associations. Only unions or associations could be registered under the act; hence workers desiring to enjoy the benefits of conciliation and arbitration were obliged to form unions, and these soon were federated into associations. The employers, at first, had few organizations, but presently, in order to combat the efforts of the labor unions, they formed unions and associations of their own.

In the year 1896 there were 65 unions of workers with 9370 members; and only one union of employers, with 30 members.[1] In the year 1908, there were 325 unions of workers with a membership of 49,347; and 122 unions of employers with a membership of 3918.[2] Besides these, there are industrial associa-

[1] J. Ramsay Macdonald, Arbitration Courts and Wages Boards in Australasia, Contemporary Review, March, 1908.

[2] Annual Report of the Department of Labor, 1909, p. 13.

tions of employers and of workers, frequently employing paid secretaries who are prominent in industrial disputes. These secretaries, like the "walking delegates" of American unions, have been accused of fomenting disputes, but it is hard to see how the work of the associations could be carried on without them. Mr. Macdonald thinks that arbitration has "taken the steel out of the unions," that it has increased their membership while taking away their fighting spirit. But the general opinion among both employers and workers is that unions of both classes have been greatly strengthened, and the events of the past few years have shown that the workers have a good deal of fighting spirit left.[1]

The act of 1894 was designed to provide for the settlement of serious disputes, such as would be likely to lead to strikes or lock-outs. But in practice any difference between employers and workers is considered a dispute within the meaning of the act.[2] As has been clearly shown by Mr. MacGregor, "disputes" have multiplied, and the law, instead of being used to settle only serious cases threatening to "arrest the processes of industry," has created something which is not arbitration at all, but a system of governmental regulation of wages and conditions of labor in general.[3] Doubtless Mr. Reeves neither intended nor expected such an outcome, but in the light of subsequent events it is clear that compulsory arbitration could have no other result. Mr. MacGregor very appositely quotes Machiavelli's saying: "Let

[1] Aves, Report on the Wages Boards and Industrial Conciliation and Arbitration Acts, London, 1908, p. 203.

[2] Parliamentary Debates, vol. lxxvii, p. 30; Broadhead, op. cit., p. 49.

[3] Industrial Arbitration in New Zealand, by J. MacGregor, M. A., Dunedin, 1901. Also other articles by Mr. MacGregor.

no man who begins an innovation in a state expect that he shall stop it at his pleasure or regulate it according to his intention."

The arbitration act was designed to improve the condition of the working class as well as to prevent strikes, and, therefore, practically all of the disputes have originated with the workers, while the employers have occupied the position of defendants. Wages were low in 1894, but toward the end of the following year business conditions began to improve and an era of prosperity began which lasted without a break until the winter of 1908. Had the system of conciliation and arbitration not existed, the workers would have looked to their employers to grant the concessions which they desired. But since the legal machinery was at hand, they proceeded to use it to obtain the same results. When any number of workers desired to obtain higher wages, shorter hours, or other concessions, they formed a union of seven or more persons, were registered with the clerk of awards of the industrial district in which they were, and proceeded to formulate their demands. These would be sent by letter to the employers concerned, and then, if the demands were not granted, a dispute was created which presently came before the Board of Conciliation.

Mr. Reeves thought that most of the cases would be decided by the boards and that only the most serious cases would come before the Court. In the Session of 1894 he said in Parliament: "I do not think that the Arbitration Court will be very often called into requisition; on the contrary, I think that in 99 cases in 100 in which labor disputes arise they will be settled by the Conciliation Boards; but unless you have in the background an Arbitration Court

the Conciliation Boards will not be respected, and they will be virtually useless." Strange to say, the boards were not respected because of the existence of the Court, and because it was so easy to appeal to the higher tribunal.

In the early years of the act many cases were settled by the Boards, but the contending parties soon perceived that the Boards were not true boards of conciliation, but arbitration courts of first instance, and, wishing to have the decision of the highest tribunal, they carried most of the cases to the Arbitration Court. The workers were fairly well satisfied with the Boards, since the decisions were usually in their favor. But the employers were very much dissatisfied, and through their influence the amendment of 1901 was passed, permitting either party to a reference to go straight to the Arbitration Court. From the coming into operation of the act until December 31, 1901, 51 cases were settled by the Boards and 100 by the Court. From January 1, 1902, to December 31, 1905, 20 cases were settled by the Boards and 163 by the Court. In the year 1906 only two cases were settled by the Boards, and in the year 1907, up to May 31, not one case was thus settled, altho several recommendations were made.[1] Besides, of the cases settled by the Boards in previous years, it is probable that nearly all could have been settled by friendly conciliation without the intervention of the Boards. Since the Act of 1908 went into operation, a number of minor disputes have been settled by the new Councils of Conciliation and the Court has been relieved of many trivial cases.

Many reasons have been given for the failure of conciliation. Mr. Reeves himself says that the sys-

[1] Broadhead, op. cit., p. 35; Aves, op. cit., p. 93.

tem was tedious and cumbrous.[1] In one case a Board spent twenty-six days considering a dispute which was later settled by the Court in half a day.[2] Mr. Broadhead says that the members of the Boards were seldom specially qualified, that they were usually in sympathy with the labor party and were partisan in their decisions.[3] Mr. Aves gives as the chief cause of failure formality of procedure and partisanship.[4] But Mr. MacGregor points to the root of the trouble when he says: "It is impossible to combine in the same scheme conciliation and compulsory arbitration."[5] In other words, conciliation and compulsion are opposed to each other, and the so-called conciliation boards are really arbitration courts of first instance, effective only in so far as they exercise a degree of compulsion, but for the most part ineffective when there is appeal to a higher court.

That governmental regulation is incompatible with freedom of contract was brought out in a forcible way by the Chief Justice, Sir Robert Stout, in a decision by the Court of Appeals in May, 1900. He said: "All contracts regarding labor are controlled and may be modified or abrogated. The Court can make the contract or agreement that is to exist between the workman and the employer. It abrogates the right of workmen and employers to make their own contracts. It in effect abolishes *contract* and restores *status*. The only way the act can be rendered inoperative is by the workmen not associating or not joining any union. No doubt the statute, by abolishing *contract* and restoring *status*, may be a reversal

[1] State Experiments, vol. ii, p. 131.

[2] Parliamentary Debates, vol. cxlv, p. 248.

[3] Broadhead, op. cit., p. 31.

[4] Aves, op. cit., p. 92.

[5] Industrial Arbitration, p. 21.

to a state of things that existed before our industrial era, as Maine and other jurists have pointed out. The power of the legislature is sufficient to cause a reversion to this prior state, altho jurists may say that from *status* to *contract* marks the path of progress."[1] In a decision rendered in July, 1906, the Chief Justice said: "The right of a workman to make a contract is exceedingly limited. The right of free contract is taken away from the worker, and he has been placed in a condition of servitude or status, and the employer must conform to that condition.[2]

The judges of the Arbitration Court have been invariably jurists of high standing. There have been six judges in fifteen years, — Justices Williams, Edwards, Martin, Cooper, Chapman, and Sim. The position of judge of the Arbitration Court is not an enviable one and the judges have always been glad to be transferred to the regular work of the Supreme Court.

Some idea of the work done by the Conciliation Boards and the Arbitration Court may be got from the fact that the total number of awards, agreements, and recommendations made under the act from its inception until May 31, 1907, was 535, affecting 78 trades, and including 339 awards, 137 agreements, and 59 recommendations.[3] The decisions have to do with butchers, bakers, builders, miners, slaughtermen, tailors, tanners, and nearly all important occupations except agriculture, the professions and the governmental service.

A recent decision relating to agricultural laborers is most extraordinary. It originated in a dispute

[1] Book of Awards, vol. i, p. 304; Broadhead, op. cit., p. 111.

[2] Broadhead, op. cit., p. 93.

[3] Aves, op. cit., p. 93; Broadhead, op. cit., p. 213.

between the Canterbury Agricultural and Pastoral Laborers' Union and the Canterbury Sheep-owners' Industrial Union of Employers and about 7000 farmers in the Canterbury industrial district. The dispute was referred to the Conciliation Board on November 16, 1906, and on the same day was referred by the union to the Arbitration Court. After hearing much evidence and thoroly discussing the case in all its bearings, the Court decided, on August 21, 1908, that no award should be made, on the ground that it was impracticable to fix any definite hours for the daily work of general farm hands, and that the alleged grievances of the farm laborers were not sufficient to justify interference with the whole farming industry of Canterbury. Mr. J. A. McCullough, the workers' representative on the Arbitration Court, and a pronounced partisan, strongly dissented from the finding of the Court. In his formal protest he said: "It appears to me a most extraordinary and despotic proceeding to say that the largest section of the workers in this Dominion should be denied the right to have the conditions of their livelihood, their wages and hours of labor, fixed by means of the legislation which has been expressly provided for this very purpose."[1] And yet, the amendment act of 1908, passed a few months later, expressly permits the Court to refuse to make an award if for any reason it considers it desirable to do so.

The awards and agreements made under the act cover a great variety of subjects, among which the most important are, — minimum wages, hours of labor, permits to incompetent workers, limitation of apprentices, periods of apprenticeship, piecework, distribution of work, holidays, meal hours, provision

[1] The Press, Christchurch, August 22, 1908.

of tools, modes of payment, notice of dismissal, scope and duration of awards, interpretation of awards, extension of awards, breaches of awards, and fines. In most of the awards, particularly during the early years of the act, the workers gained something. Mr. Aves says: "In the whole series of awards, there has been only one insignificant case when wages have been reduced, and two when hours have been increased. There have, however, been many instances in which, on renewed application of the Court, no fresh award has been granted, and when, therefore, conditions have been left unaltered." [1]

In most of the awards a minimum wage is granted, and this is never a bare subsistence minimum, but rather an ideal wage such as an able-bodied worker of average ability ought to earn. It has generally been fixed at a point higher than the average wages prevailing in the trade at the time the award was made.

One important effect of the establishment of so high a minimum wage is that workers of less than average ability find it hard to obtain constant employment. This difficulty has been partially met by granting under-rate permits to such workers. But most workers, other than old men, do not like to be branded as incompetent, so that not many under-rate permits are applied for or granted. During the years 1902 to 1907, 1288 permits were granted, 603 by chairmen of conciliation boards, 614 by secretaries of unions, and 71 by stipendiary magistrates, while in 121 cases the applications were not granted.[2]

An interesting case occurred after the Auckland Furniture Trade award of February, 1903, when 31 workers out of a total force of between 200 and

[1] Aves, op. cit., p. 99.

[2] Aves, op. cit., p. 151.

300 were discharged or suspended by different employers on the ground that they were not worth the minimum wage granted by the award. The Secretary for Labor, as well as the workers' union, took proceedings against the employers for breach of award, but the complaints were dismissed by Justice Cooper, who held that "the employers had done nothing beyond what a reasonable employer is entitled to do in the ordinary regulation of his business." [1] The workers were much dissatisfied with this decision, and an amendment was passed in 1905 for the express purpose of declaring such action on the part of employers to be an offence. "In order to maintain an appearance of equality, it was, of course, necessary to extend the provision to analogous action on the part of workmen, and thus it came about that strikes as well as lock-outs were made offences." [2]

It is often stated that the granting of a minimum wage works a hardship upon the worker of more than average ability, since the employers, being compelled to pay the minimum wage to a large number of workers of less than average ability, are unable, if not unwilling, to pay more to superior workers. The general opinion among employers and theorists is that the average wage tends to become the minimum, the minimum tends to become the standard, and the standard tends to become the maximum.[3]

A recent investigation by the Department of Labor shows that wages are by no means so uniform as one

[1] Book of Awards, vol. iv, p. 135; Broadhead, op. cit., p. 73.

[2] Manuscript by J. MacGregor, 1908.

[3] Broadhead, op. cit., p. 72; Aves, op. cit., p. 194; Clark, the Labor Movement in Australasia, p. 230; Labor and the Arbitration Act, a speech by the Hon. Dr. Findlay, June 17, 1908.

would expect from a theoretical point of view. Out of 2451 employees in factories in Auckland City, excluding under-rate workers and young persons, 949 received the minimum rate, and 1504, or 61 per cent of the whole, received more than the minimum. In Wellington, the per cent receiving more than the minimum was 57; in Christchurch, 47; and in Dunedin, 46.[1]

The most reasonable conclusion that one can draw from these facts in relation to the theory stated above, which certainly has some validity, is that the minimum wages awarded in most of the trades are not high, that the average worker fully earns the award rate, and that it pays the employer in most cases to give higher wages to the better men. This conclusion is substantiated by a consideration of the prosperity of New Zealand and of the slight effect which the awards seem to have had on the prices of manufactured articles. It should also be remembered that the superior worker is more regularly employed than the average, so that his yearly wage must be higher than the amount indicated by the figures of weekly wages only. But where the minimum is placed too high there must be a tendency toward a levelling down of wages, which cannot but be discouraging to the more efficient worker, and injurious to the industrial efficiency of the Dominion. For this reason, the objection of the unions to piece-work is probably ill-founded, and, in so far as the Arbitration Court has decided against the piece-work system, it has injured the efficient worker and increased the cost of production of manufactured articles.

In order to prevent such results, Dr. Findlay has suggested a double, or, rather, a primary and a sup-

[1] Annual Report of the Bureau of Labor, 1909, pp. 133–143.

plementary standard, — the primary standard to be a "living wage," based on the reasonable "needs" of workers of different classes, and the supplementary wage to be based on the extra work done by the more efficient workers. In other words, there should be a minimum wage based upon the day's work, and an additional wage based upon the work of the day as a premium upon efficiency.[1] Quite apart from the theoretical difficulties of Dr. Findlay's suggestion, the proposal to establish an "exertion wage" was not well received by the labor leaders of New Zealand, who appear to have an ineradicable objection to anything like a task system, and a profound dislike of "pace-makers, chasers, runners and bell-horses."[2]

In the decisions of the Arbitration Court, questions as to wages and hours of labor occupy first place, but close after these comes the claim of unionists for preference of employment. The Act of 1894 was specially designed "to encourage the formation of industrial unions and associations," and at first non-unionists were neither recognized by the law nor under the jurisdiction of the Court. It was, therefore, natural that the Court should favor unionists. The first decision recognizing the unionists' claim to preference was given in December, 1896, when the following clause was inserted in the Canterbury Bootmakers' Award: "Employers shall employ members of the New Zealand Federated Bootmakers' Union in preference to non-unionists, provided that there are members of the union who are equally qualified with non-members to perform the particular work required to be done and are ready and willing to

[1] Findlay, Labor and the Arbitration Act, Wellington, 1908; John A. Ryan, A Living Wage, New York, 1906.

[2] The Evening Post, Wellington, July 28, 1908.

undertake it." [1] Since, however, the employer was the judge of the qualifications of his employees, the unionists did not gain much by this decision. In later awards it was usually specified that preference was granted only when the union was not a close guild but practically open to every person of good character who desired to join. Preference was not usually granted where the unionists were but a fraction of those working at a trade.[2]

Among the arguments in favor of preference, the chief is that the unionists go to much trouble and expense to obtain concessions, not only for themselves but for other laborers, and that non-unionists can obtain preference by joining the union. Also, preference is sometimes regarded as a compensation to unionists for having given up the right to strike. Preference, too, protects active unionists from being victimized by their employers. Again, unionists generally object to working in the same shop with non-unionists. In brief, the question is practically the same as that of the closed shop in the United States.

Non-unionist laborers object to preference on the ground that it tends to compel them to join the union. Preference, they say, is compulsory unionism. Employers object to preference because it increases the power of the unions and interferes with the employer's freedom in employing and dismissing. In some cases they would discriminate against unionists, whereas, when preference has been granted, they are obliged to examine the employment book kept by the union in order to give the unionists the first

[1] Book of Awards, vol. i; Broadhead, op. cit., p. 105.

[2] Reeves, op. cit., vol. ii, p. 112.

chance of employment. Failure to do this is generally regarded as a breach of award.

Preference has been granted in most of the awards. Out of 159 awards in force on March 31, 1906, preference had been granted in 115 cases, refused in 40 cases, and not asked for in 4 cases.[1] But since preference is usually granted on conditions similar to those mentioned above, the unionists are dissatisfied and demand unconditional preference, which would prevent the employment of non-union men while any unionists were available, whether competent or not. The Arbitration Court, except in a few minor cases, has refused to grant unconditional preference, and the unionists, realizing that preference to an open union is no preference at all, now look to Parliament for redress and demand statutory unconditional preference to unionists.[2] This the present government are opposed to granting, and even Mr. Millar, until lately Minister of Labor, does not favor it.[3]

In the administration of the act, the sympathy of the Department of Labor is generally with the workers, and the employers complain of partiality. From March 31, 1900, to March 31, 1904, there were 213 cases of breach of award brought against employers, in 171 of which convictions were secured. In the same time there were only four cases brought against workers. Since the inspectors of factories were made inspectors of awards, in 1903, more complaints have been brought against workers, particularly those taking part in the strikes of the past few years. One would expect a large proportion of cases for

[1] Broadhead, op. cit., p. 113.

[2] Annual Report of the Trades and Labor Councils of New Zealand, Dunedin, 1907, p. 38.

[3] Parliamentary Debates, vol. cxiv, p. 188.

breach of award to be brought against employers, since the awards have usually been made for the benefit of the workers. Also, employers have little to gain by prosecuting workers. When fines are inflicted upon employers for paying less than award rates, they are made large enough to include back wages, except when the workers have knowingly accepted the illegal rates. The inspectors frequently recover back wages without prosecution.[1]

There is a pretty well-defined theory in justification of compulsory arbitration in the minds of those who favor that method of settling industrial disputes. The competitive system, in this view, has resulted in two great evils, — sweating and strikes. Under sweating the workers receive less than enough to secure a decent subsistence for a human being. The strike is a form of private war in which the strongest win, not those who have justice on their side, and which causes great inconvenience to the public, who are a third party in every strike. All the evil and injustice should be done away with by an appeal to a court, which should establish relations between employers, workers, and the public according to principles of justice.

On the surface the theory appears to be highly reasonable, but when put into practice, serious, if not fatal difficulties arise. One of these has to do with the discovery of specific principles of justice; the other with the enforcement of awards supposedly just. So great are the difficulties in the way of discovering principles of justice in the determination of wages, that one of the most distinguished of the former presidents of the Arbitration Court has stated that no such principles exist.

[1] Annual Report of the Department of Labor, 1909, p. 14.

The theory of fair wages that appears to prevail is the doctrine of the living wage, stated both in its negative and its positive form. Stated negatively, the theory holds that extremely low wages, such as are found under the sweating system, are not fair wages, because insufficient to afford a decent living according to the colonial standard.[1] Stated positively, a fair wage is a wage which is sufficient to give the worker a decent living according to the colonial standard, which is higher than the British standard, considerably higher than that of continental Europe, and immeasurably higher than that of the Chinese or Indian coolie. This standard applies, of course, only to the able-bodied worker, because the aged and infirm are not worth so much to the employer. Here is introduced another principle, the principle of payment according to the ability of the employer, and how these two principles can be reconciled it is not easy to say.

Other difficulties arise when the theories are applied to actual cases. For example, a wage which would be quite sufficient for a single man might be inadequate for a married man, and should vary with the size of his family and their ability to contribute to their own support. But if a married man is to receive more than a single man of the same ability, he will find it hard to get employment except in the most prosperous times. Again, a living wage for a skilled worker must be higher than that for a common laborer, since his standard of living is higher. This arises from the fact that skilled laborers are scarce; but here another complicating factor is introduced, the supply of labor, which, in densely populated countries, threatens to destroy not only the theory but the possibility of a living wage.

[1] Ayes, op. cit., p. 100.

These and other complications prevent the creation of a body of legal principles defining and explaining the nature of fair or reasonable wages, but do not prevent the Court from bearing in mind the desirability of keeping the customary standards of colonial life from falling, and the equal or greater desirability of raising those standards as much as possible. The doctrine of a living wage, then, is not an established legal principle, but an ideal toward which people may strive. The Arbitration Court, not being bound by precedent nor hampered by technicalities, and having legislative as well as judicial powers, may do its best to attain the ideal within the limits fixed by economic law. But one hears little about economic law in New Zealand, and much more about justice and fairness in distribution, as tho there was no such thing as market value and the effort to attain the desirable had no relation whatever to the possible.

The doctrine of a living wage is nothing more than a starting point for the workers of New Zealand. They demand a living wage and as much more as they can get. Realizing the fact that some employers can afford to pay more than others, the workers desire that some form of profit-sharing be established by the Arbitration Court.[1] But the Court has repeatedly stated that profit-sharing could not be taken as the basis of awards, on the ground that it would involve the necessity of fixing differential rates of wages, which would lead to confusion, would be unfair to many employers, and unsatisfactory to the workers themselves.[2]

In practice, the awards appear to be based on two main principles: first, the desire and intention of the

[1] Otago Daily Times, May 18, 1907.

[2] Book of Awards, vol. vii, p. 50; Broadhead, op. cit., p. 61.

Court to secure a living wage to all able-bodied workers; second, the desire of the Court to make a workable award, that is, to grant as much as possible to the workers without giving them more than the industry can stand. In doing this regard must be had to the prosperity of a given industry as a whole, if not to the profits of individual employers. It is usually taken for granted that no reduction will be made in the customary wages in any industry, and, in times of depression, this might be regarded as a third regulative principle. Again, it is the custom of the unions, in formulating their disputes, to demand more than they expect to get, knowing that, in the worst case, they will lose nothing. So frequently has this been done that one might almost lay down a fourth regulative principle, the principle of splitting the difference.

During all the years since the act was passed, political power has been in the hands of the Liberal Party, so that both the government and the judges have been disposed to do what they could for the working class. If they have not done more, it is because they could not, or thought they could not, without grave injury to the industries of the country. Justice Williams, the first president of the Court, said in a letter to the London Times: "The duty of the Court is to pronounce such an award as will enable the particular trade to be carried on, and not to impose such conditions as would make it better for the employer to close his works, or for the workmen to cease working, than to conform to them."[1]

The rigidity of system which is characteristic of the railway rates seems to be taking possession of the regulation of wages also. When the awards were

[1] Broadhead, op. cit., p. 57.

few in number it was easy to make a change without any serious disturbance to industry, but now that they are numerous and their scope has been widely extended, it is difficult to make a change in one without making many other changes, for the sake of adjusting conditions of labor to the changing conditions of business. There is, therefore, a temptation to abide by the established conditions. As Dr. Clark says: "The total effect is to make the condition of status more rigid." [1]

Another stumbling-block in the way of advance in wages is the inefficient or marginal or no-profit employer, who, hanging on the ragged edge of ruin, opposes the raising of wages on the ground that the slightest concession would plunge him into bankruptcy. His protests have their effect on the Arbitration Court, which tries to do justice to all the parties and fears to make any change for fear of hurting somebody. But the organized workers, caring nothing for the interests of any particular employer, demand improved conditions of labor, even tho the inefficient employer be eliminated and all production be carried on by a few capable employers doing business on a large scale and able to pay the highest wages.

This is not to say that even the most efficient employers could afford to pay wages much in excess of those now prevailing. Dr. Findlay has made an elaborate statistical examination of this matter, and arrives at the conclusion that if all the net profits, excluding interests, of all the employers in New Zealand, except farmers, were divided among all their employees, the yearly increase in wages would be very small. He says: "Any attempt to lay violent hands upon these profits would put an end to all

[1] The Labor Movement in Australasia, p. 204.

business enterprise, and thus destroy the very source from which the profits are drawn."[1] From such a statement as this it is but a step to the position that wages are determined chiefly by economic laws, and that the Arbitration Court can cause, at most, very slight deviations from the valuations of the labor market.

It is not easy to show that compulsory arbitration has greatly benefited the workers of the Colony. Sweating has been abolished, but it is a question whether it would not have disappeared in the years of prosperity without the help of the Arbitration Court. Strikes have been prevented, but New Zealand never suffered much from strikes, and it is possible that the workers might have gained as much or more by dealing directly with their employers than by the mediation of the Court. As to wages, it is generally admitted that they have not increased more than the cost of living. A careful investigation by Mr. von Dadelszen, the Registrar General, shows that, while average wages increased from 1895 to 1907 in the ratio of 84.8 to 104.9, the cost of food increased in the ratio of 84.3 to 103.3. No calculation was attempted for clothing or rent.[2]

It is a common opinion in New Zealand that the increase in the cost of living has been due largely to the high wages and favorable conditions of labor fixed by the Arbitration Court, but so widespread a result cannot have been due to local causes alone. There may be, and probably are, cases in which the awards of the Court have compelled manufacturers to raise the prices of their products, but these are doubtless exceptional. If it is true that in most cases the Court has awarded wages no higher than the

[1] Labor and the Arbitration Act, 1908, p. 10. [2] Year-Book, 1908, p. 539.

industries could stand, and little, if any, higher than the labor market would have effected without arbitration, then it is probable that the increased cost of living has been due chiefly to other causes, to the prosperity of the Colony, the prosperity of the world in general, and the increased production of gold during the period under discussion. Some think that the rise in prices has been due to combinations of manufacturers and merchants, but tho it is true that such combinations exist, their control over prices appears to be very slight.[1]

Manufacturers complain that the awards have been so favorable to the workers as to make it difficult to compete with British and foreign manufacturers, and demand that either the arbitration system be abolished or that they be given increased protection by higher duties on imported goods. It is claimed that the growth of manufactures has not kept pace with the growth of population and the importation of manufactures from abroad.[2] There is reason to think that the boot trade, fell-mongering, and flax-milling have been hampered by the awards, particularly during the depression of 1908–9, when the manufacturers could not adjust wages to the depressed conditions of the market.[3] Mr. Broadhead says: "It is commonly remarked among business people that industrial enterprise in New Zealand has been checked to a considerable extent by the labor laws of the country. It is an undoubted fact that many people having money to invest have been

[1] Parliamentary Debates, vol. cxlv, p. 212, speech by Mr. Ell; Clark, The Labor Movement in Australasia, p. 236; Scholefield, New Zealand in Evolution, p. 214.

[2] Broadhead, op. cit., pp. 136, 219.

[3] Aves, op. cit., p. 169; Reeves, State Experiments, vol. ii, p. 147; Report of the New Zealand Employees' Federation, 1908.

careful to avoid any concern in which labor is the chief item in expenditure. It may be remarked, too, that hardly any new industry has been started for some years."[1] Even Mr. Millar spoke in the same strain in the House: "There is a limit beyond which wages cannot go in this country or any other country. The limit between the cost of the imported article and the manufactured article is so small now that the least thing can turn it one way or another."[2]

There is such agreement among manufacturers as to the effect of compulsory arbitration in increasing the cost of production that their statements cannot be lightly dismissed, especially as many unbiased writers concur in the opinion. From 1896 to 1901, there was a period of rapid growth of manufacturing establishments, many of them new to New Zealand, and in those years the number of hands employed and wages paid increased by 56 per cent and 63 per cent respectively.[3] From 1901 to 1906 the growth of manufactures was considerable, tho not so great as during the former period. In this time the population increased by 15 per cent, the total imports by 29 per cent, the number of hands employed in manufactures by 22 per cent, the wages paid by 33 per cent, and the value of the output by 31 per cent.[4] However, the growth was chiefly in manufactures which have to do with the preparation of raw materials for market, such as meat freezing and preserving, butter and cheese factories, saw-mills and flax-mills. Most of the other manufacturing establishments show a moderate improvement, such as printing establishments, grain mills, tailoring, furniture and

[1] Broadhead, op. cit., p. 218.

[2] Parliamentary Debates, vol. clxv, p. 184.

[3] Year-Book, 1902, p. 103.

[4] Year-Book, 1909, p. 405.

cabinet-making, coach building, brick works, agricultural implement works, and sugar-boiling. Others, including woolen mills, show a very slight improvement, while several important industries, including tanning and fell-mongering, iron and brass foundries, clothing and boot and shoe factories and breweries, show a falling off.

These statements refer only to the value of the output, as shown in the reports of the census. Statistics relating to the profits of manufacturing, as given in the census reports for 1901 and 1906, in so far as they are to be relied on, show that profits in general are not at all high. In 1901 the total value of manufactures was £17,853,113, while the combined value of the materials used and the wages paid was £11,052,417. In 1906 the value of the manufactures was £23,444,235; the value of materials, £13,163,692; the amount paid in wages, £4,457,619; and the combined value of materials used and wages paid, £17,615,311.[1] According to these figures, the gross profit in 1906 was less than in 1901, altho a much larger business was done in the latter year than in the former. Also, if one were to deduct interest, and other items of cost, the net profits of manufacturing enterprise would appear to be low. This conclusion is confirmed by the income-tax statistics, which show that, in the year 1907–8, the gross profits of traders, manufacturers, and business men were £7,775,579, upon a capital of at least £40,000,000. This, again, does not seem to be a high rate of gross profit, considering the risks undertaken by business men. The profits, however, of merchants are probably higher than those of manufacturers, if we except meat-freezing and kindred establishments.[2]

[1] Year-Book, 1909, p. 419. [2] Findlay, Labor and the Arbitration Act, 1909.

Unquestionably, manufactures, with the exception of the great industries which work up raw materials for market, are not doing any too well. But it is not likely that compulsory arbitration is the chief cause of this. The high wages which manufacturers have to pay are due chiefly to industrial conditions which always prevail in a new, thinly populated country with great natural resources awaiting development. The more prosperous the agricultural population, the higher wages must be, and the more difficult it is for manufacturers to find workers. This is particularly true of women workers, for whom there is an active demand in the matrimonial market.

New Zealand manufacturers produce on a relatively small scale, find it hard to compete with imported goods produced under totally different conditions, and are inclined to throw the blame upon the Arbitration Court. Certainly, the Court has done nothing to lower the cost of production, except in the way of preventing strikes and has probably increased it somewhat, not so much by fixing minimum wages as by granting, in many cases, limitation of apprentices, prohibition of piece-work, and other restrictions. As Dr. Clark says: "All regulations restricting the freedom of employers in conducting their business probably add to the cost of production." [1]

Many employers believe that the cost of production has been increased by a decline in the efficiency of labor due to the fixing of high minimum wages, which discourages capable men from doing their best work. Mr. G. T. Booth says: "I am quite sure that the arbitration system has resulted in a loss of industrial efficiency far greater than ever resulted from strikes." Mr. Booth asserts that the annual output

[1] The Labor Movement in Australasia, p. 233.

per man in a certain industry (engineering) has fallen from £254 in 1901, to £224 in 1906, but, as Mr. Ell pointed out, this may have been due to other causes.[1] There is much difference of opinion about this matter. In reply to one of the questions sent out by Mr. Aves, 6 employers and 13 employees said that efficiency had been increased, while 29 employers and 1 employee said that it had been decreased.[2] It seems probable that the "go easy" way of working has gained ground in New Zealand in recent years, but the same phenomenon is observed in other countries, and the tendency of trade unionism everywhere seems to be toward a levelling down which cannot but discourage a high degree of industrial efficiency.

The employers, at best, give but a grudging approval to the Arbitration Act. The farmers, as a class, are decidedly opposed to it.[3] Mr. Massey, the leader of the Opposition, said in the House that he was opposed to compulsory arbitration.[4] Mr. William Scott, secretary of the Otago Employers' Association, says: "Thirteen years' experience as an employers' advocate before the Court compels me to admit that any method of regulating wages by act of Parliament must in the end result in failure."[5] Mr. Broadhead very fairly sums up the attitude of the employers, thus: "Some, for business or other reasons, decline to express an opinion on the act, but say that the act has been diverted from its original purposes; others, and these, I think, form a large proportion of the employers in the Colony, have

[1] Parliamentary Debates, vol. cxlv, p. 210; Annual Report of the Canterbury Employers' Association, 1908.

[2] Aves, op. cit., pp. 109, 180.

[3] Evening Post, Wellington, June 30, 1908.

[4] Parliamentary Debates, vol. cxlv, p. 195.

[5] Scott, Address before the New Zealand Employers' Federation, August 28, 1907.

little or nothing to say in favor of the act, and express the opinion that it would have been better for the industries of the Colony if it had never existed." [1] It should be remembered, however, that these opinions were expressed when the employers were alarmed and disgusted with the act because of several important strikes. Since that time they have come to realize that they might have lost more by strikes than they have ever lost by arbitration; and, since the workers have been dissatisfied, the employers are more disposed to stand by the act, or to maintain a neutral attitude, waiting to see what the workingmen will do.

The dissatisfaction of the employers was not the chief of the causes which brought about the amendment Act of 1908. The original act and most of the amendments were passed for the benefit of the working class and had they been satisfied there would have been no material change. The workers expected great benefits from the act, and for some years they were well satisfied with the results. Travellers from abroad, like Mr. Henry D. Lloyd, found almost everybody loud in praise of the act, and only a few critics, like Mr. John MacGregor, prophesying against it. When M. Félicien Challaye visited New Zealand in the year 1900, he attended a meeting of the Wellington Trades and Labor Council, and got the members to express individually their opinion of the act. One after another they recited the advantages of compulsory arbitration: higher wages, shorter hours, steady employment, and other benefits. "It has put thousands of pounds in our pockets," said one member. "It is a part of our religion," said another.

But as the early awards expired and fresh disputes

[1] Broadhead, State Regulation, p. 208.

arose, the Court frequently declined to make substantial concessions to the workers, who soon began to express their dissatisfaction. According to Mr. Broadhead, the first protest against an award was made at Christchurch, in 1901, when the Christchurch Operative Bootmakers' Society unanimously passed a resolution declaring that the recent award in their trade was "against the weight of evidence." In August of the same year the Canterbury Trades and Labor Council condemned the action of the Court in refusing to make a complete award in the wool-scouring and fell-mongering trades.[1]

From this time complaints against the Court became more frequent and bitter, not because wages were reduced, but because they were not increased, and because other demands were not granted. Great dissatisfaction was aroused because of the Dunedin Seamen's Award of February, 1906, when the Court refused to grant the demands of the seamen, on the ground that no substantial difference in circumstances had arisen since the last award. The workers' representative dissented from this decision, which aroused great indignation among all classes of workers. The secretary of the Seamen's Union is reported as saying: "The seamen have given so-called arbitration a very fair trial, extending over about ten years. The most cherished principles that they are striving for have been denied us by the Court, and improvements in the seamen's condition are evidently not obtainable under the present system of arbitration." Numerous resolutions were passed by labor organizations condemning the action of the Court, and the Australasian Federated Seamen's Union of Wellington passed a resolution recommending that a ballot be taken of

[1] Broadhead, op. cit., p. 164; Book of Awards, vol. III, p. 463.

all the members in New Zealand on the question whether the registration of the union under the act should not be cancelled. The seamen also considered the advisability of striking, thus reviving echoes of the maritime strike of 1890.

At the Meeting of the Trades and Labor Council of New Zealand, at Christchurch, on April 19, 1906, Mr. D. McLaren moved: "That this Conference has no confidence in the Arbitration Court as at present constituted," but the motion was lost by a vote of 11 to 5.[1] The motion was a veiled attack on Mr. Justice Chapman, the president of the Court. The term of Mr. Justice Chapman expired at the end of the year, when, at his own request, he was transferred to the regular work of the Supreme Court. He was succeeded by Mr. W. A. Sim, of Dunedin, but with no better results from the workers' point of view. Some have gone so far as to suggest that the Judge of the Arbitration Court should be elected by the people, in the hope that the unions might control the election, but this would be at variance with all British traditions and could not be brought about.

The dissatisfaction finally came to a head in a series of strikes beginning with that of the tramway employees in Auckland, on November 14, 1906. Before this time there had been a few unimportant strikes[2] and the Auckland strike was not important except as indicating the changing attitude of the workers toward the act. The conductors and motormen, 222 in number, left their cars about five o'clock on the afternoon of November 14, and remained out

[1] Report of the Annual Conference of the Trades and Labor Councils of New Zealand, 1906.

[2] Reeves, State Experiments, vol. ii, p. 139.

until about eight o'clock, when the company acceded to their demands. The men's grievance had to do with the summary dismissal of a conductor for alleged misconduct, and the dismissal of ten other employees for refusing to teach "learners." Six months later the company was brought before the Court and fined £5 and costs for having dismissed the men without the fourteen days' notice required by the award. Of all the men who went on strike, only two were brought before the Court, and these were fined £1 each, without costs. The Court was lenient because it did not consider that the strike had been preconcerted.

The next strike began on February 12, 1907, when the slaughtermen employed by two meat-freezing establishments near Wellington struck for higher wages, demanding 25*s*. per 100 sheep or lambs slaughtered, instead of the old rate of 20*s*. The trouble was settled by a compromise at 23*s*. The Gear Company resumed work on February 18, and the Wellington Meat Company on the following day. Encouraged by this success, the slaughtermen in various parts demanded higher wages and went on strike when these were refused. In every case a compromise was effected at 23*s*. It was not until March 16 that the strikes came to an end. Presently, the men were cited to appear before the Arbitration Court and fines were imposed. The original strikers escaped on a technicality, but all the rest, 266 in number, were condemned to pay £5 apiece, the fines amounting to £1330 in all. Up to March 31, 1909, £776 was recovered, leaving £553 unpaid, since the delinquents could not be found, some having gone back to Australia and others being scattered in different parts of the Colony. Since that time orders of attachment of wages were served on those

who had ignored the final notice, and by this means about £100 more were secured.[1]

Early in the year 1908, a strike occurred among the coal miners of the West Coast which continued for eleven weeks. Seven miners had been dismissed by the manager of the Blackball Company, whereupon all the colliers, 120 in number, went on strike on February 27. The men asserted that the miners dismissed were being victimized because they were active unionists and socialists. The Company was willing to compromise and offered to reinstate the men, but the miners refused to return to work unless some arrangement were made to prevent a similar occurrence in the future, and suggested that when men were to be dismissed they should be selected by ballot. They also demanded thirty minutes' lunch time and a strict enforcement of the "bank to bank" principle, according to which the miners were to be underground only eight hours from bank to bank, that is, from surface to surface.

The Department of Labor attempted to effect a settlement of the trouble, but without success, whereupon the union was cited before the Arbitration Court and a fine of £75 was imposed. The strike continued and the union went so far as to refuse to pay the fine, alleging that it had no funds. In this position the union was generally condemned by public opinion, but supported by a number of unions by resolutions of sympathy and gifts of money. Finally, the Arbitration Court decided to proceed against the men individually for their share of the fine. The whole of the fine, together with the costs of collection, amounting to over £147, was recovered by means of attachment orders under the Wages Attachment

[1] Annual Report of the Department of Labor, 1909, p. 25.

Act of 1895. According to a recent decision of the Court of Appeals, the men could have been imprisoned, if they had refused to pay, for a maximum term of one year, but it was not necessary to do this and public opinion was not in favor of imprisonment for the offence. The strike was ended about the middle of May, when the Company conceded practically everything that the men had demanded.[1]

On May 21, 1908, a second strike of motormen and conductors occurred at Auckland and lasted until Monday, May 25. The cause of the trouble was similar to that of the strike of November, 1906. Mr. Edward Tregear, the Secretary for Labor, and Mr. A. M. Myers, the Mayor of Auckland, succeeded in inducing the parties to refer all the questions to a special board of conciliation under Sections 51 and 52 of the Compilation Act, 1905. This is the only case in which these sections have been applied to the settlement of a dispute. The finding was delivered on July 25, and was largely favorable to the employees. Action was taken by the Department against the Union for bringing about a strike, and a fine of £60 was imposed, which was paid within twenty-five days.[2] Later in the year, when the amendment act was passed, it provided for Councils of Conciliation similar to the special board used to settle this dispute.

A strike of bakers began in Wellington on June 29, 1908, shortly after the Court had made an award granting an increase of wages, but not so great as had been desired. Altho the strike lasted seventy-six days, it was a complete fiasco, causing no shortage of bread, and the bakers were glad to return to work

[1] The Evening Post, Wellington, February to May, 1908; Annual Report of the Department of Labor, 1909, p. 26.

[2] Report of the Department of Labor, 1909, p. 26.

on the terms of the award. The penalty in this case was £100, which was paid within one week, as directed. Action was taken against four others for aiding and abetting the strike. The Court ruled that the provisions of the act did not cover such cases, and held "that the strike was complete on the day that the strike took place, and that it was impossible for the respondents to be guilty of the said offences by anything which they did after the date the strike took place."[1] This defect in the law was remedied by the Amendment Act of 1908, which provided penalties for aiding and abetting an unlawful strike or lock-out, and made a strike a continuing offence.

On September 16, 1908, the Hon. J. A. Millar, the Minister of Labor, presented to the House a complete list of the strikes which had occurred since November 14, 1906. He said: "The total number of strikes is 23, and the total number of strikers 1117. The men rendered idle were 2389; the duration of strikes was 316 days; and the loss of wages to workmen amounted to £17,667. The approximate loss to employers was £15,688. This will give honorable members a fair idea of what the strikes cost the country; and this is, after all, upon a very small scale, as will be seen."[2]

Trouble in the mining industry arose again because of the new Workers' Compensation Act of 1908, which was to go in force on January 1, 1909. The act provided for employers' liability, not only in case of accident, as formerly, but for some diseases characteristic of certain industries, including pneumoconiosis, or miners' consumption.[3] In order to pro-

[1] Report of the Department of Labor, 1909, p. 26.

[2] Parliamentary Debates, vol. cxlv, p. 187.

[3] Evening Post, Wellington, December 30, 1908.

tect themselves and the employers against the additional risk, the insurance companies required that the workmen concerned undergo a medical examination to show that they had not already contracted pneumoconiosis or any other of the diseases mentioned in the act. This the miners refused to do, with the result that most of the coal mines in the Inangahua district were closed pending a settlement of the difficulty. The trouble was neither a strike nor a lock-out, but a deadlock, due to a very peculiar situation created by the act. Altho a number of gold miners had submitted to examination, the Waihi Miners' and Workers' Union, representing about 1700 men, on January 7 passed the following resolution: "That this union pledges itself not to submit to a medical test. That we endorse the action of those who refused to submit to a test, and are prepared to come out in a body in their support should they not be reinstated by next Monday." [1]

The situation was very grave. The State Insurance Department had very properly refused to assume the extra risk without medical examination, and the government had stood by them, but on hearing of the action of the Waihi union, the government made a complete change of front, authorized the Insurance Department to issue policies without examination, and agreed to indemnify the Department against loss, pending further legislation.[2]

This extraordinary concession was received with astonishment by the public, especially by employers and insurance men, but it prevented a serious strike, and the trouble about pneumoconiosis was ultimately settled by the employers' agreeing to take their own

[1] Evening Post, Wellington, January 8, 1909.

[2] The Evening Post, January 9, 1909.

risks against the disease or accept the Insurance Department's offer to insure their workers at an increased rate without medical examination.[1] The whole affair illustrates the difficulty of applying business principles to an enterprise carried on by a democratic government.

The pneumoconiosis deadlock resulted in a strike of the coal miners at Huntly, who wished to have four so-called "blacklegs" degraded for having submitted to a medical examination, but the miners were clearly in the wrong, accepted a compromise proposed by the Company, and went back to work on January 27.

A trifling strike occurred on January 15, 1909, when seventeen fell-mongers employed by the Hawkes Bay Freezing Company at Daki Daki discontinued work for one hour because the Company would not allow them ten minutes, morning and afternoon, for a "smoke-oh," which was not provided for in the award. The men's demand was granted, but the Department took action against the men individually before Mr. S. E. McCarthy, a stipendiary magistrate, who inflicted penalties of £1 each against the respondents.[2]

From this time until November, 1909, there were practically no strikes. Possibly this was due to the industrial depression, possibly to the desire of the workers to give the Amendment Act of 1908 a fair trial, altho they did not expect much benefit from it. In November, trouble arose in the State colliery at Point Elizabeth, near Greymouth. The men wanted the Department to do the trucking, and the Department desired to make a reduction in the hewing rate

[1] Annual Report of the Canterbury Employers' Association, 1909, p. 11.

[2] Annual Report of the Department of Labor, 1909, p. 26.

to compensate it for the extra expense of trucking. The manager and the union could not come to terms, the union's executive called a strike on November 23, and all the miners, over 400 in number, quit work. It was an odd coincidence that the strike occurred soon after the beginning of a great strike of coal miners at Newcastle in New South Wales, when some people were demanding the nationalization of the collieries as the best way of preventing strikes. On this point, The Press, of Christchurch, an opposition paper, said: "Governments, especially as we know them in New Zealand, are, indeed, much more squeezable by labor agitators than are private employers, and in this fact lies much of the danger to the taxpayer of State incursions into the domain of private enterprise."

Another interesting fact is that the miners were encouraged in their demands by the statements of the Department that the State collieries were earning large profits, altho some financial critics deny that any such profits were earned.[1] One of the miners is reported as saying: "We are not going to sweat ourselves to pay fat salaries to Sir Joseph Ward and the big bugs. The profits of the State mine should go to the men who dig the coal."[2]

After much discussion, the Government, being convinced that the miners had substantial grievances, receded from the position previously taken, and the miners' representatives received the assurance that the Minister of Mines, the Hon. Roderick McKenzie, would visit Point Elizabeth after the session of Parliament and would give the men conditions not less favorable than those obtaining in

[1] The Star, Christchurch, November 24, 1909.

[2] The Evening Post, November 27, 1909.

other mines. The miners resumed work on Monday, December 13, with the feeling that they had won a great victory. According to agreement, Mr. McKenzie paid a visit to the West Coast and effected a compromise on January 5, 1910. The miners were not prosecuted for striking, for they were no longer under the jurisdiction of the Arbitration Court, since they had allowed their registration to be cancelled by the Department of Labor for failing to send in the annual returns required by law.

On the day after this settlement was effected, the Wellington Slaughtermen's Union sent a notice to the Gear Company and the Wellington Meat Export Company that they would go on strike in 14 days if their employers would not grant them a rate of 25*s*. a hundred for all sheep and lambs not otherwise specified, besides other concessions. The agreement entered into after the strike of 1907 had expired on June 10, 1909, after which it continued in force while negotiations for a new agreement were pending. The employers, wishing to have the dispute heard by the Conciliation Commissioner, Mr. P. Hally, according to the new law, drew up a statement and appointed assessors. But the union neglected to appoint assessors, preferring to settle directly with the employers. On January 14 and 15, a conference was held at which Mr. Hally presided, tho not officially as Commissioner. The conference arrived at terms of peace, by which the slaughtermen obtained practically all that they had demanded. The agreement was to go to the Arbitration Court to be constituted an award for three years.[1]

The strikes of 1907 and 1908 caused a widespread opinion among employers and the general public that

[1] Evening Post, January 15, 1910.

the act should be amended, chiefly for the sake of preventing strikes. The laborers, as a class, were not enthusiastic about the matter, since the proposed amendments were designed to compel them to obey the law rather than to bring them any additional benefits. A bill was brought in by the Minister of Labor in the session of 1907, but received little attention. In the session of 1908 the Minister again brought forward a bill, which was actively debated. Finally, the Industrial Conciliation and Arbitration Amendment Act, 1908, was passed, and went into effect on January 1, 1909. The following is a brief summary of the leading provisions of the new law.[1]

It gives elaborate definitions of the terms "strike" and "lock-out," stress being laid in both cases on the "intention" of the workers or employers in causing a strike or a lock-out.

The terms "unlawful strike" or "unlawful lock-out" mean a strike or a lock-out by parties bound by an award or industrial agreement in the industry affected. For example, the strike of the miners in the State colliery in November, 1909, was not an "unlawful strike," for the registration of the Union had been cancelled and there was no award or agreement in force.

Every worker who is a party to an unlawful strike is liable to a penalty not exceeding £10; and every employer who is a party to an unlawful lock-out is liable to a penalty not exceeding £500.

The maximum penalty for aiding or abetting an unlawful strike or lock-out is, in the case of a worker, £10; and in the case of an industrial union, trade

[1] Summary of the Industrial Conciliation and Arbitration Amendment Act, 1908, by Henry Broadhead.

union, or employer, or any person other than a worker, £200. No penalties are provided for other than "unlawful" strikes or lock-outs.

Special penalties are to be inflicted when strikes or lock-outs occur in certain specified industries, — the manufacture or supply of coal gas; the production or supply of electricity for light or power; the supply of water to the inhabitants of any borough or other place; the slaughtering or supply of meat for domestic purposes; the supply of milk for domestic consumption; the sale or delivery of coal; the working of any ferry, tramway, or railway used for the public carriage of goods or passengers. These penalties are to be inflicted if a worker strikes without having given at least fourteen days' notice to his employer, or if an employer fails to give a similar notice to his employees of his intention to lock-out. It was to escape these special penalties that the Slaughtermen's Union gave notice to their employers, on January 6, 1910, of their intention to strike at the expiration of fourteen days, unless their demands were granted. Strange to say, special notice is not required in the case of a strike or a lock-out in the mining of coal, but only in the sale or delivery of it.

The judgment in any action is enforceable in the same manner as a judgment for debt or damages in the magistrate's court. The surplus of a worker's wages may be attached above the sum of £2 a week in the case of a worker who is married, or who is a widower or widow with children, or above the sum of £1 a week in the case of any other worker. Imprisonment for refusal to pay fines is abolished.

The Boards of Conciliation are abolished, and Councils of Conciliation take their place. The only

permanent members of these councils are the Commissioners of Conciliation, at present three in number, who are appointed by the Governor. In case of a dispute, one of the commissioners goes to the scene and tries to effect a settlement in an informal manner. If unsuccessful in this, he sets up a Council of Conciliation consisting of one, two or three assessors representing the employers, and an equal number representing the workers. Except under special circumstances, every assessor "must be or have been actually and *bona fide* engaged or employed either as an employer or as a worker in the industry."

Every dispute must be referred to the Council before proceeding to the Court, and in every case the Council is required to make a recommendation, which has no binding force, but operates merely as a suggestion for the amicable settlement of a dispute by mutual agreement and as a public announcement by the Council as to the merits of the dispute. In this respect, the new law resembles the Lemieux Act of Canada, which is a system of investigation and conciliation. However, an agreement, when filed, has all the force of an award, and, if the Council fails to effect a settlement, the dispute is automatically referred to the Arbitration Court.

The Amendment Act of 1908 is thus a modification of the former system in the direction of voluntary conciliation. Mr. Millar said in the House: "The main principle of the Bill is to let us go back to conciliation as far as possible." [1] At another time he said: "In my opinion there are times when the compulsory element requires to be used. I desire to keep the Arbitration Court quite in the background, like a spectre that may be brought forward and made

[1] Parliamentary Debates, vol. cxlv, p. 186.

substantial if required."[1] Thus, the new law is in accordance with the views of Mr. Reeves, the author of the act of 1894, who believed that most disputes could be settled by conciliation, and favored arbitration only as a last resort. However, the amendment act still provides for compulsory, and not voluntary conciliation, and there is reason to think that compulsory conciliation is not conciliation at all, but compulsory arbitration under another name, and is, in the last analysis, governmental regulation of wages and all other conditions of labor.

But there is a way by which the workers may altogether evade the arbitration law and strike as much as they please without rendering themselves liable to penalties. After the expiration of an award, they have only to cancel their registration or allow it to be cancelled by the Department for neglecting to send in their annual returns. It has already been noted that this was done by the Point Elizabeth miners, who, therefore, could not be punished for striking. During the year ending March 31, 1909, sixteen workers' unions, and a like number of employers' unions, had their registration cancelled for the same neglect, while two other unions formally cancelled their registration.[2] In the words of Mr. Millar: "The right to strike has not been denied by the House. If the men do not like to voluntarily surrender their rights, let them register under the Trades Unions Act and go on strike every day in the week; but when we pass an act giving them advantages they could not otherwise get — giving them permanency of employment and regulating wages

[1] Parliamentary Debates, vol. cxlv, p. 480.

[2] Annual Report of the Department of Labor, 1909, p. 23.

and so preventing sweating — I think it is not too much to ask that they should voluntarily carry out their agreement and not strike." [1]

There are some weak features in the new act, as there must be in any attempt to deal with so difficult a subject, but hitherto it seems to have had a fair degree of success.[2] Mr. F. W. Hobbs, president of the Canterbury Employers' Association, says: "The new system has not had a long enough trial to warrant any definite opinion being expressed as to whether the expectations formed of it will be realized. Undoubtedly, a large majority of the disputes which have come before the Councils have been settled, either wholly or in part, and thus the work of the Arbitration Court has been considerably lessened. The operation of the act will be closely watched, as it is generally recognized that its failure will bring the end to compulsory arbitration as a means of settling our industrial disputes." [3]

Undoubtedly, most of the people of New Zealand earnestly desire that the act may prove successful, and the employers, as a class, notwithstanding their frequent criticisms and their dislike of regulation, would rather have arbitration than strikes, provided that the Court is reasonable in its decisions, as it has been in the past, and does not put upon them a greater burden than they can bear. The employers will not move for the repeal of the act, but will throw the responsibility for its success or failure wholly upon the shoulders of the workers.

[1] Parliamentary Debates, vol. cxiv, p. 482.

[2] A series of ten articles in the Evening Post, Wellington, September 17 to October 5, 1908.

[3] Annual Report of the Canterbury Employers' Association, July 23, 1909.

The workers' position is embarrassing. The original act was passed for their benefit as well as to prevent strikes, but when it could no longer be used as a machine for raising wages they were the first to rebel against it. Doubtless, a large proportion, if not a majority, of union laborers have been much dissatisfied with the act, and yet most of them are disposed to give the amendment act a fair trial. The more radical among the workers, many of whom are socialists of the type of Tom Mann, regard the Arbitration Court as an instrument of capitalism in keeping the working class in subjection, would abolish the act, and inaugurate a period of industrial warfare as a prelude to the social revolution.

But the more conservative among the workers wish to do all they can to preserve industrial peace. The Hon. J. T. Paul, one of the most capable of the labor leaders, said in the Council: "I have no hesitation whatever in saying that I am totally opposed to the strike, that I see absolutely no good in it, and I oppose it for one reason, that it is against the interests of those whose welfare I have most deeply at heart, and against the interests of the general community. Strikes cannot be supported, because they do not help the worker." In the same debate Mr. Paul quoted with approval the words of Mr. Pritchard, who was a prominent and almost violent supporter of the Blackball miners in the strike of 1908, who said: "There is a tendency among a few trade union leaders to influence the members of their organizations to cancel the unions' registration under the act and I wish as a unionist to protest emphatically against such action on their part. I want to see the best possible method of obtaining as much as possible of the product of labor for the laborer,

and, to my mind, the best system so far discovered is that of compulsory arbitration." [1]

The workers are probably in error in thinking that the wages of all classes of labor can be raised much above the market value by means of unions and strikes, by the awards of a court, or by any means other than increasing the efficiency and limiting the supply of labor. It would probably be the best policy for the working class to accept rates of wages based on the market value of labor, to encourage the highest possible efficiency, and to increase the provision already made against accident, sickness, and old-age, by means of insurance supported by taxation of the incomes of the rich.

But in particular cases, as has been shown by the success of most of the recent strikes, organized labor can frequently force concessions which the Arbitration Court would not grant, and which, if given to all of the working class, the industries of the Dominion could not stand. The unionized workers, then, numbering about 50,000, out of about 420,000 breadwinners, have interests somewhat opposed to those of the non-union workers as well as to the interests of the employers and many other people. If, therefore, the unions adopt the policy of cancelling their registration, and try to force concessions from their employers by means of strikes, they will lose the advantages enjoyed under the act, and, what will be far more serious, they will lose the sympathy of the general public, by whose assistance they have obtained the most advanced labor legislation in the world.

The future of compulsory arbitration will depend upon the attitude of the workers. They could have

[1] Parliamentary Debates, vol. cxlv, p. 570.

the act repealed at any time, but they are not likely to do that. If they find that they gain nothing by compulsory arbitration, they will simply allow their registration to be cancelled, after which they may strike or not as they see fit, and the act will become a dead letter. Another and more consistent course which they might adopt would be to stand by the act and take a more active part in politics with the hope of being able to control the appointment of the Judge of the Arbitration Court, through whom they might obtain concessions impossible to secure under the present political conditions. This, however, has the appearance of a forlorn hope, for even if an independent labor party could step into power, as in Australia, they could not do much more for labor than has been done by the Liberal Party, without serious damage to the industries of the Dominion and serious injury to themselves.

Dr. Findlay sums up the subject thus: "It should be the aim of every country to prevent strikes, not by severe pains and penalties, but by providing, if it be possible, such conditions of labor, and such a fair, prompt, and competent tribunal as will secure to the workers all they can ever reasonably hope to attain by a resort to the blind force of a strike." [1] At present, the workers do not expect to gain much by appealing to the Arbitration Court, but to keep them loyal to the government and the Court they perhaps require not pains and penalties, but additional inducements of some sort. Possibly the system of arbitration could be brought into some relation to the system of insurance and pensions, so that workers peacefully disposed might receive benefits not granted to those who prefer to appeal to force regardless of

[1] Labor and the Arbitration Act, p. 16.

the welfare of their fellow-citizens. However that may be, it is to be hoped that the interests of all concerned will be secured by methods of peace, and that there will be a successful outcome to the magnificent experiment of compulsory arbitration.

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OLD AGE PENSION SCHEMES: A CRITICISM AND A PROGRAM [1]

SUMMARY

Spread of Old Age Pension Legislation, 713. — I. Fundamental Principles Involved, 715. — Analysis of Main Types of Scheme, 715. — II. (1) Partial Non-contributory Pensions, 720. — Effects on Poor Relief, 721. — On Wages, 723. — On Character and Efficiency, 725. — On Family, 727. — (2) Compulsory Insurance, 728. — (3) Voluntary Annuity Systems, 733. — III. Conclusions concerning Non-contributory Pensions and Compulsory Insurance, 735. —Outline of Program of Legislation for American States, 738. — Adequacy of Proposed Measures, 741.

THE establishment of old age pension systems in many states is a striking phase of the growth of social legislation during the last two decades. Germany led the way in 1889, with the first old age and invalidity insurance law. Denmark instituted a system of old age out-door relief in 1891. Next, three of the Australasian colonies of Great Britain established old age pension systems, — New Zealand in 1898, New South Wales in 1900, and Victoria in 1901. Meanwhile Belgium had adopted a system of old age insurance and pensions in 1900. France and Italy also later introduced special measures of old age relief, modeled after the Belgian system. In 1908 the Commonwealth of Australia enacted an invalidity and old age pension measure to go into effect July 1, 1909; the Canadian parliament passed a law providing for

[1] The analysis of the old age pension problem and the program of legislation set forth in this paper are the outcome of studies made by the writer as secretary of the recent Massachusetts Commission on Old Age Pensions, Annuities, and Insurance. The statistical data and quoted matter in this article are in all cases taken from the report of the Commission, House No. 1400, January, 1910. It seemed superfluous to append foot-notes to the text citing pages of the report. The writer has also used without quotation marks the language of the report, as it is his own.

the issue of government annuities; and England adopted the old age pension act to go into effect January 1, 1909. The French senate has recently passed a measure of obligatory and contributory old age insurance.[1] Projects of legislation with reference to this question have been under parliamentary consideration in Austria, Norway, and other European states.

This widespread movement has been prompted by mixed motives; humanitarian and economic considerations have worked together in its support. The former were uppermost in the minds of the pioneers of the movement. The men who first directed public attention to the problem of old age provision in England, about a generation ago, were philanthropists who desired to reduce the volume of human misery. They were shocked by the extent of old age pauperism. They proposed that a pension system be established as a means of taking aged workers out of the almshouses and enabling them to spend their last years in self-respecting comfort. Later, the humanitarian motive was reinforced by economic considerations. The changing conditions of economic life forced the problem of industrial superannuation upon the attention of employers. The increasing use of machinery and the growing stress of competition demanded the retirement of workers at an earlier age. Employers have come to recognize that the aged worker is a burden on industry; his retention in active employment after he has passed the limit of his efficiency means economic waste. The establishment of pension systems has, therefore, been proposed as a means of retiring employees at a reasonably early age and removing this handicap on industry.

[1] See the account by Dr. Foerster below, at p. 763.

I

The various plans for the solution of the problem of old age support which have been tried or proposed involve widely different principles and methods. The first issue that arises in passing upon principles and methods of solution is, should the plan be contributory or non-contributory? That is, should the expense be borne in whole or in part by the beneficiaries, in the form of contributions to pension or insurance funds, or should the cost be defrayed entirely by the State, through general taxation? If the contributory principle be chosen, then the further question arises, should participation in the plan be compulsory or voluntary? That is, should individuals be left entirely free to take advantage of the system of pensions or insurance provided, or should they be compelled to participate in the scheme? If, however, the non-contributory principle be chosen, the matter of compulsion becomes irrelevant, because it is evident that every one who really needed such aid would apply for a pension under any non-contributory system. Finally, whether the plan be contributory or non-contributory, this further question comes up for consideration, should the insurance or pension scheme be universal or partial? That is, should the benefits be extended to all without restriction, or should they be confined to those who meet specified conditions of eligibility?

Proceeding further with the analysis — from principles to measures — we may group the various plans of old age pensions, insurance, or annuities under six main types:

(1) *Universal Non-contributory Pension Schemes.* This type of scheme is associated with the names of

Charles Booth of London and the late Edward Everett Hale of Boston — the most prominent advocates of universal non-contributory pensions. The scheme of Mr. Booth calls for the grant of a pension of 7*s.* a week to every person 70 years of age and over. Mr. Booth would exclude aliens, and possibly other ineligibles, from the benefits of the pension system, but remarks that it is unnecessary to burden the statement of his scheme with these details. Practically, the plan is universal in its application, and is wholly non-contributory. Any person claiming to be 70 years of age and entitled to a pension would take out an application. If the application were allowed, the pensioner would then be provided with a certificate of identity and a pension book, which would enable him to draw his allowance weekly at a local post office. The plan proposed by the late Edward Everett Hale was similar to that of Mr. Booth. Every citizen, man and woman, over 69 years of age was to be paid a pension of $100 a year. The cost of this scheme was to be met out of the proceeds of a State poll tax. It was Dr. Hale's opinion that, if the expense of a pension scheme were provided for in this way, the citizens who paid a poll tax would feel no discredit attaching to the receipt of a pension, since they would themselves provide the funds out of which the pensions would be paid.

(2) *Partial Non-contributory Schemes.* This type of scheme is embodied in the old age pension acts of Great Britain and Australia. The application of the British and Australian systems of old age pensions is restricted to the deserving aged poor. The British act provides for the payment of pensions, not exceeding 5*s.* weekly, to persons 70 years of age and over, but excludes from the benefits of the scheme

the following classes: persons who have lived in the United Kingdom less than 25 years; persons whose yearly incomes exceed £31 10*s.*; persons in receipt of poor relief; persons who have failed to work according to their ability to maintain themselves and their dependents; inmates of lunatic asylums; and persons convicted of a prison offence. The scheme is wholly non-contributory, the expenses being paid out of "money provided by Parliament." The Australian system is similar in principle to the British plan, the main differences being that the pensionable age is lower, namely, 65 years, and that the amount of the pension is larger, namely, 10*s.* per week.

(3) *Compulsory Contributory Insurance, with State Subsidy.* This is the well-known German system. The insurance is compulsory on all wage-earners, and on salaried persons whose yearly income does not exceed 2000 marks. The scheme is founded on the principle of obligatory insurance for working people, with assistance by employer and State. Participation in the plan begins with the completed sixteenth year. The pension is paid at the age of 70. The contributions by the insured are graded according to the amount of wages or salary in each case. The contribution is divided equally between the employer and the employed. The State pays the expenses of administration, and in addition contributes to each pension a fixed sum. This method of dividing the burden works out in practice so that one-third of the total expense is borne by the State, by employers, and by employed respectively. The amount of the pension is small, the maximum allowance not exceeding $60 per year.

(4) *Voluntary Contributory Insurance, with State Subsidy.* This is the plan embodied in the Belgian

old age pension act. It is a scheme for subsidizing thrift by means of a state contribution to insurance funds provided through individual savings. The object is to put a premium on saving for old age. Participation in the scheme is optional. The pension is payable at the age of 60; the amount is $72. The plan is administered through a superannuation fund bank, maintained by the State. Citizens may insure themselves, making contributions to this bank; the State then pays a bonus or premium on the amount contributed by the individual. This scheme of assisted insurance is supplemented in Belgium, it should be added, by a system of non-contributory pensions.

(5) *Annuity Schemes under Public Administration.* This type of scheme has been adopted in Massachusetts through the savings bank insurance act of 1907, and in Canada through the government annuities act of 1908. The underlying principle of these two measures is essentially the same. They provide for the sale of insurance or annuities at low rates, under a governmental guarantee. In the Canadian scheme the sales are made directly through a governmental department; in the Massachusetts scheme, indirectly through the medium of the savings banks. The system differs from the Belgian plan of voluntary contributory insurance, in that the State pays no direct subsidy to the insurance funds. There is, however, a small subsidy by the State, in the form of the expenses of administration. The maximum amount of the annuity in Canada is $600, the minimum $50; in Massachusetts the insurance is limited to $500, and the annuity to $200. Opportunity is afforded to employers to co-operate with their working people in providing insurance or annuities, by making contributions toward the payment of premiums or assisting in the collection of the latter.

(6) *Voluntary Insurance under Private Management.* This method of dealing with the pension and insurance question is illustrated by the industrial insurance offered by private insurance companies, and the retirement and pension systems established by employers of labor. No state action is involved here, except in the form of supervision. In case of the schemes established by employers, each industrial group provides for its own insurance through a contributory or non-contributory scheme. The great majority of these private pension systems are based on the non-contributory principle. Industrial insurance is a business proposition, pure and simple; it represents private enterprise applied to the solution of the problem of old age insurance.

II

The untried scheme of universal non-contributory pensions may be dismissed from further consideration. The enormous expense is generally recognized as prohibitive, even tho the plan itself were otherwise unobjectionable. Aside from financial considerations, the demoralizing effect of pensioning indiscriminately the thrifty and the thriftless, the deserving and the undeserving, the needy and the well-to-do is an absolutely conclusive objection to the plan.

So far as existing measures of legislation are concerned, the issue lies between (1) partial non-contributory pensions, (2) universal compulsory insurance, and (3) voluntary annuity schemes. In general, this issue should be determined especially with reference to the effects of the different systems upon the rate of wages, upon the character and efficiency of

the individual, and upon the status of the family. It is obvious that any plan of state aid which tends to depress wages, to weaken character and efficiency, or to disintegrate the family, must be condemned as socially injurious.

(1) The British old age pension system has not been in operation long enough to afford much evidence regarding the social effects of this type of scheme. The Australasian legislation, also, is of comparatively recent origin. The only important conclusion that can be drawn from the short experience with partial non-contributory pensions in the British colonies relates to the effect on poor relief. One of the popular arguments for the pension policy is that it will reduce greatly the outlay for relief purposes. The contention is that the establishment of a pension system for the aged will keep them out of the almshouses. It is argued that the consequent reduction of expenditure for poor relief will offset in great measure the cost of the pensions. It has even been contended that the adoption of a pension plan will result in net saving to the State. This argument is completely discredited by the experience of the British colonies. In New Zealand, the cost of in-door relief has risen notably since the pension scheme went into operation, from 11 1/2*d.* per capita of the population in 1898 to 1*s.* 5*d.* per capita in 1906. The treasurer of the colony of Victoria states that the introduction of the old age pension system has had no observable effect on the charitable institutions of that State. The Australian Royal Commission of 1905 expressed the opinion that the adoption of pension systems in New South Wales and in Victoria had not appreciably lowered the amounts voted for charitable purposes by the governments of those colonies. The

experience of Denmark may also be cited. The expenditure for poor relief has increased since the adoption of the old age pension system in 1891. When the system was established it was expected that the cost of poor relief would decrease to some extent, if not proportionately to the grant of old age relief. For a few years this expectation was realized. Since 1896, however, the amount expended for poor relief has steadily increased, and in 1907 the amount thus expended exceeded the expenditure for 1890 by nearly 1,000,000 kroner ($250,000). The total expenditure for poor relief in 1896, when it reached low level, was 7,105,000 kroner ($1,776,000); in 1907 it was 9,177,474 kroner ($2,294,368).

In this connection, the fact disclosed by the report of the British Royal Commission of 1909 on the Poor Laws that the number of in-door paupers has increased in proportion to the population since 1900 is significant. The last annual report of the Local Government Board shows also an increase of the number of in-door paupers of all ages during the last six months of 1908. The report of the Royal Commission on the Aged Poor connects this recent increase of in-door pauperism with the movement for old age pensions, which culminated in the enactment of the law of 1908. The commissioners state that this movement has created a general feeling that the state is able and willing to make provision for parents whose sons fail to support them. The natural consequence of the weakening of filial obligation has been an increase of the number of aged paupers.

It is not difficult to understand why poor relief expenditure fails to be diminished by the establishment of a pension system. In the first place, a pension system hardly touches the mass of the almshouse

population. The majority of inmates of pauper institutions are there not because of poverty alone, but because of disease, infirmity, or affliction, which necessitates institutional residence. The grant of a pension will not take such persons out of the institutions. It appears, for example, that about 92 per cent of the aged almshouse population in Massachusetts are incapacitated in whole or in part. This incapacity is found to be a result of sickness in 71 per cent of the cases, of accident in 15 per cent, and of old age in 32 per cent. Furthermore, it appears that less than 8 per cent of the aged almshouse inmates have relatives living who are able or willing to help support them. In the second place, the more liberal policy of dealing with the aged under a general pension system reacts also on the methods of pauper relief. The effect is to promote larger expenditure for charitable purposes. The pension system sets the pace for a more generous administration of the poor laws. Finally, the tendency of a pension system is to cultivate in the population at large a disposition to rely upon the State, and to take advantage of opportunities of public assistance to the utmost degree. The individual relaxes his effort to make independent provision for himself. The spirit of self-reliance, self-support, and self-respect tends to decline. Mr. C. S. Loch, secretary of the London Charity Organization Society, in commenting upon the recent tendency of pauperism to increase in Great Britain, remarks: "The evidence is ample that it is due to that public opinion which of late years has minimized the evils of State dependence and the responsibilities of family obligation, and has advocated schemes for old age pensions and other measures that cannot but tend to weaken the

sense of social duty and lower the standard of personal independence in the community."[1]

With respect to the effects of partial non-contributory schemes on wages, on character and efficiency, and on family, in the absence of conclusive evidence it is possible only to lay down certain *a priori* generalizations.

It seems clear that the grant of pensions by the State, without contributory payments on the part of the beneficiaries, must tend in the long run to lower the rate of wages. In the first place, the effect of pension subsidies granted by any state must be to attract wage-earners from outside, and thus to crowd the labor market, at least for a time. Even if a period of residence were required as a condition of participation in the pension system, its existence would, nevertheless, operate to some extent as an inducement to workers to take up their residence in the pensioning state. This could hardly fail to react unfavorably upon the wage rate. It is true, to be sure, that this artificial stimulus to immigration would in time be diminished in proportion to any reduction of the wage rate which attended the operation of the pension system; but in the beginning there would unquestionably be an inducement to influx of workers into the pensioning state.

Furthermore, the direct competition of the pensioned aged workers would tend somewhat to depress wages. Clearly, if a part of the workers in any employment are pensioned by the State, they can, if they choose, underbid competitors who are not in receipt of such aid. The force of this influence depends largely upon the age at which pensions are granted, and the amount of the pension given. In

[1] See Old Age Pensions: a Collection of Short Papers, London, 1903, p. 155.

the case of a pension system that provided liberal pensions at an early age, the effect on wages would be marked. Obviously, a pension of $500 a year to all workers over 50 years of age would affect the rate of wages most unfavorably in the manner described. If, however, the pensionable age were fixed at 70, the liability of depression of the wage rate through the competition of pensioned workers would not be considerable, especially if the amount of the pension were small, as in the existing pension schemes of European countries. This direct competition of the pensioned workers is probably a negligible factor so far as the existing systems of old age pensions are concerned.

Far more serious in its effect on wages would be the reflex competition, as it may be termed, created by the pension system. This is the influence of the prospect of a State subsidy in old age in relation to the wage requirements of adult workers in general. If the State granted gratuitous pensions for old age, this fact would doubtless be taken into account by workers, and the rate of wages that they would demand or require would be reduced correspondingly. That is to say, the prospect of a State subsidy would reduce the need of individual saving; wage-earners, not being under the necessity of making full provision for old age, could afford to work for lower wages. In short, the amount of the pension would be discounted in advance by the workers in their competition for employment.

Finally, the effect on wages of the tax burden imposed by a pension system, must be taken into account. The taxes to defray the expenses of a non-contributory pension system, or of a subsidized pension or insurance scheme, would, in the first in-

stance, fall largely upon the industries of any State adopting such a plan. It is clear that the manufacturers would make an effort to shift this burden, so far as possible, upon consumers or upon employees, in the form of higher prices or lower wages. The former course would be practically impossible in the case of industries subject to interstate competition. The general tendency, then, would be to lower wages.

The liability of a depression of wages through indirect competition, as it has been termed, appears to be the chief consideration here. Of course, the extent of the reduction of wages that might be brought about through this influence would depend upon the provisions of the pension system, especially upon the amount of the pension and the conditions of eligibility. It is clear, for example, that if large pensions were provided for all aged persons, without any restriction whatever as to eligibility, the effect must be to lower wages to a marked degree. With pensions of small amount and with stringent conditions of administration, the effect upon wages would be less marked; but even then the prospect of pensions would doubtless operate as a barrier to advances of wages which otherwise the working class might obtain. It is to be feared, therefore, that the establishment of a subsidized pension or insurance system would stand in the way of realization of the ideal of an adequate living wage. If the State undertakes to support aged workers in whole or in part, the effect must be to lower proportionately the actual or potential rate of wages in the pensioning State.

The influence of a non-contributory pension scheme upon character and efficiency would undoubtedly be as unfavorable as the effect upon wages. The motives and energies of self-help would be weakened

by this form of state help. The assurance of public support in old age unattended by any degree of discredit attached to its acceptance would lead wage-earners to relax their efforts to make independent provision for their declining years. It would weaken the incentives to individual saving. This seems so obvious that it is surprising to find among professional economists any dissent on this question. Professor Henry R. Seager, however, not only denies that a non-contributory pension scheme will discourage saving, but goes even further and contends that it will have the positive effect of quickening the development of that spirit of independence and self-help, which lies at the basis of all true progress. "The new policy," he believes, "far from discouraging thrift and foresight, will tend on the whole to encourage them." [1]

This prediction seems opposed to the common habits and usual tendencies of human nature. The thrift habit is not instinctive and universal; it is the rare product of careful training. It is extremely hard to build up and very easy to break down. The aim of modern poor law reform has been to cultivate this habit by penalizing unthrift and stigmatizing dependency. The enactment of the British old age pension act of 1908 means abandonment of this approved policy of conserving thrift, and reversion to the discredited methods of general out-door relief. The gravest consequences are to be apprehended from the change. It threatens disaster to voluntary agencies for the encouragement of saving, such as the friendly societies. The unfortunate influence of the pension system upon these organizations was

[1] See article on Old Age Pensions in Charities and the Commons (now The Survey), October 3, 1908, p. 12.

the subject of serious discussion at the recent annual meeting of the friendly societies. The general expectation that the old age pension system will soon be supplemented by state insurance against sickness and accident has operated to the further disadvantage of the friendly societies. It needs no argument to show that this check to the growth of voluntary thrift agencies is a most serious evil, moral as well as economic. In general, moreover, the new pension policy must exert an enervating and demoralizing influence upon character, lessening the sense of personal responsibility and self-reliance, and sapping the foundations of individual initiative and ambition. A non-contributory pension is simply poor relief in disguised form. The acceptance of such a dole is hardly compatible with a vigorous spirit of self-supporting and self-respecting independence.

In a similar way, the non-contributory pension policy would weaken the bonds of family solidarity. It would take away, in part, the filial obligation for the support of aged parents, which is one of the main ties that hold the family together. The supporters of this policy deny that this result would follow. They contend that, on the contrary, their plan would strengthen the family institution; they reason that the payment of small pensions to old persons would help to keep families together by making it possible for the children to retain the aged parent in the household in view of the addition that his pension would bring to the family income. While this might be true in individual cases, it can hardly be doubted that the general effect on the family would be disintegrating. The assumption by the State of the obligation to support the aged in their homes would undermine filial responsibility, precisely as the guaran-

tee of public maintenance of children would destroy parental responsibility. The impairment of family integrity is, in fact, one of the most serious dangers threatened by recent experiments with non-contributory pensions.

(2) The compulsory insurance system of Germany presents a direct contrast to the non-contributory pension schemes of Great Britain and her colonies. The latter are based on the principle that the obligation to support the aged rests upon the State, and that the superannuated worker may claim a pension of the State as a right, not as a charity. The German plan is founded on the opposite principle that the obligation to provide for old age rests upon the individual, and that the State should enforce the performance of this duty and at the same time facilitate the required provision for old age through the compulsory co-operation of employers and the payment of state subsidies to the insured.

The German system of compulsory insurance has been in operation long enough to demonstrate to some extent its social effects. In the main, the results must be pronounced satisfactory. The plan is unquestionably the most effective and successful scheme of old age support now in existence. The attitude of public opinion in Germany toward the compulsory insurance laws is generally favorable. Recent testimony as to the successful working of the system is furnished by Mr. Frederick L. Hoffman, statistician of the Prudential Insurance Company, who in the summer of 1909 visited Germany and studied the operation of the compulsory insurance laws. Mr. Hoffman states:

"There is much discontent with the administration of the insurance laws, but the system itself is so well thought of that

repeal of the laws is out of the question. There is no dissenting opinion, even on the part of life insurance managers, that government insurance has resulted in far-reaching reforms, that it has been of vast benefit to the people and to the nation at large, and that it has come to stay. . . . The interests of capital and labor have certainly been harmonized remarkably in Germany, and. speaking from personal observation extending over a generation, the contrast of to-day with the past is truly marvelous. How far government insurance has had a share in this progress it is of course impossible to say; but all with whom I have discussed the subject are but of one mind, — that the effect, on the whole, has been decidedly for good. It is admitted that the system has not brought industrial peace, and that the socialists were never so powerful as they are to-day; it is conceded that there is much complaint and much discontent; but the evidence otherwise is superabundant that the skilled German workman in the large cities is decidedly well off in a material way, that he is well housed, well fed, and on the whole well paid."

A further extension of old age and invalidity insurance to include adequate provision for dependent survivors in case of the death of the insured, is proposed in the draft of a new law submitted by the Chancellor to the Bundesrath, in April, 1909. This law also co-ordinates the various branches of the insurance into a complete system that will furnish protection to the working-man in all the emergencies of life, except unemployment. This contemplated extension of the system is in itself evidence of its generally satisfactory results.

The effect of compulsory insurance on the extent of pauperism and the expenditure for poor relief in Germany can not be statistically determined. Whether the establishment of the system has resulted in diminution of pauperism and reduction of the financial burden of poor relief, or the reverse, has been much discussed. Professor Henry W. Farnam, who has made an examination of statistical data and other information bearing on this question,

is of the opinion that the burden of poor relief has not been diminished in consequence of the insurance laws.[1] Recent data relating to the effect of compulsory insurance on poor relief expenditure were obtained by Mr. Hoffman in the course of his recent investigation of the insurance laws. He made inquiries on this subject in Berlin, Cologne, and other German cities. The burgomaster of Cologne was emphatic in the opinion that the insurance system had materially reduced the poor law expenses of that city. But the figures of per capita cost of out-door poor support in recent years do not sustain this contention that government insurance has reduced pauperism in Cologne. The per capita cost increased from 5.07 marks in 1897 to 5.56 marks in 1902 and to 6.38 marks in 1907. The net cost to the city, exclusive of income from funds invested for charitable purposes, was 3.42 marks per capita in 1897, 4.32 marks in 1902, and 5.29 marks in 1907. Again, the President of the Imperial Insurance Office in Berlin is quoted by Mr. Hoffman as expressing the opinion that a decided and general reduction of poor relief resulting from government insurance cannot be statistically established. Finally, Dr. Emil Münsterberg, the most eminent European authority on poor law administration, is cited by Mr. Hoffman as expressing agreement with this opinion. It is argued, however, that the primary intent of the insurance system is not to reach the pauper class, but rather to conserve the economic resources of the real wage-earning population, and to keep its members from becoming a burden upon charity in sickness, accident, or old age. This object the insurance laws have unquestionably accomplished.

[1] The Psychology of German Workmen's Insurance, Yale Review, May, 1904, p. 98.

Regarding the effect of compulsory insurance upon wages, it is more difficult to generalize with confidence than in the case of non-contributory pensions. So far as the State pays subsidies to the insured, the tendency is doubtless to cause a proportionate reduction of wages; these subsidies are discounted in the competition of the labor market, just as would be non-contributory pensions. To a certain extent, also, the compulsory contributions of employers are shifted upon the workers in the form of lowered wages. The view that the employers' contributions must in the long run be paid by the working man is accepted by President Hadley who reasons thus: "The payments to the insurance funds must chiefly, if not wholly, come out of wages. Even tho they be nominally levied on the employer, he is compelled, by competition with other employers not subject to this levy, to reduce in corresponding degree the wages he pays." [1]

This argument is based on the assumption that the employers who have to pay insurance contributions are in all cases subject to competition with other employers not thus burdened. This would probably hold true, in general, of any American state adopting an insurance system like the German; the tendency would be to a reduction of wages as argued by President Hadley. In Germany, however, the rate of wages has actually risen, instead of fallen, since the introduction of compulsory old age insurance. It is conceivable that the effect has been to prevent so great an advance in wages as otherwise might have taken place, but it is clear that the laws have not imposed any impassible barrier to the advance of wages. The cost of German old age in-

[1] A. T. Hadley, Economics, p. 60.

surance has certainly not come out of wages in any large part. The burden of supporting the system has been divided between the State, the employer, and the employed, — in what proportion it is impossible to determine.

In estimating the likelihood of a reduction of wages under the operation of a compulsory insurance system supported partly by contributions from employers, account must be taken of the social condition of the wage-earners, particularly the education and the organization of the working class, and of the attitude of public opinion as affecting the ability of the class to resist pressure on the wage rate. It must further be considered whether any increase of efficiency on the part of labor is brought about by the insurance system as an offset to the tendency toward reduction of wages. In general, however, it must be recognized that the effect on wages of an insurance system supported partly by assessments on employers would probably be unfavorable, especially if the system were established in a single American state, since most branches of industry are subject to inter-state competition.

The influence of compulsory insurance on character and efficiency, as well as on family life, would manifestly be far less injurious than that of non-contributory pensions. It is evident, however, that any compulsory system must to a certain degree exercise an enervating influence on wage-earners. Compulsion is not favorable to the highest development of individual initiative, independence, responsibility, and self-reliance. Full individual responsibility as regards provision for old age exerts a healthful stimulative and educative effect on the individual. From the point of view of social effects, a voluntary

system is certainly preferable to a compulsory. There is an inevitable weakening of vigor and resourcefulness under any compulsory scheme of social reform.

(3) The voluntary annuity schemes recently instituted in Canada and Massachusetts are not open to the objections which have been pointed out in the case of non-contributory pensions and compulsory insurance plans. The former exercise no unfavorable influence on wages, on character and efficiency, or on the family. The social effects of voluntary insurance, so far as it can be made practically effective, are clearly beneficial. The only objection that can be urged against the annuity systems relates to their practicability as a general solution of the problem of providing for old age support. It is maintained that no voluntary system of insurance can reach the class of low-paid laborers most in need of special provision for old age. Any voluntary scheme must, it is argued, be extremely limited in its application; it can never become general, including all members of the wage-earning population. The late Professor A. Shaeffle has put this argument effectively: "Experience has everywhere demonstrated that the great mass of those working men who are poorly off will not voluntarily insure themselves. Furthermore, the great majority of those who would like to do so cannot, on account of the smallness of their earnings. In other words, it is exactly that class which is most in need of insurance that either will not or cannot avail themselves of this device. This is the fundamental weakness of voluntary insurance. It fails to reach the class most in need of it."[1]

The annuity systems of Canada and Massachu-

[1] Quoted by W. F. Willoughby, Workingmen's Insurance, p. 338.

setts have been too short a time in operation to demonstrate their possibilities. The Massachusetts Savings Bank Insurance plan went into operation in June, 1908, and the Canadian Government Annuities System in January, 1909. The reports of the operation of the two laws show, however, that thus far only slight use has been made of the provisions for the purchase of annuities. During the first year of the operation of the Massachusetts Savings Bank Insurance Act, ending October 31, 1909, only 32 annuity contracts were issued, representing an annual payment in premiums of $5408. The Canadian system naturally makes a somewhat better showing in this respect, as it deals exclusively in annuities, selling no insurance. During the first seven months of operation, ending July 31, 1909, 288 annuity contracts were issued, including 44 immediate annuities and 244 deferred annuities, representing payments in purchase money and premiums of $206,410.15. The Commissioner of Government Annuities is making vigorous efforts to bring the system to the general attention of working people and employers, but with only moderate success. The longer experience of the British Postal Annuities System, established in 1864, is significant in this connection as showing the difficulty of bringing a plan of voluntary insurance into effective general use. The number of annuities issued through the post offices is very small. During the last ten years the average number of new annuity contracts issued annually has been about 150, and the total amount of insurance represented has averaged only $15,000 per year. As compared with the business done by the private insurance companies the results of the post office insurance system must be termed insignificant.

In forty years the government issued through the post offices only about the same number of policies that the London Prudential writes in ten days. It must seriously be questioned whether the Massachusetts system of savings bank insurance or the Canadian plan of government annuities can be so extended as to constitute a satisfactory solution of the problem of old age pensions.

III

Each of the three plans of old age provision which have been considered — non-contributory pensions, compulsory insurance, and voluntary annuity schemes — has been found to be objectionable or inadequate in certain respects.

The non-contributory system was adopted by Great Britain as a measure of last resort under the pressure of irresistible demand for a sweeping measure of old age relief. This demand arose from certain social conditions which fortunately have no parallel in any American state. Pauperism in general and old age pauperism in particular are far more prevalent in England than in the United States. The recent investigation by the Massachusetts Commission on Old Age Pensions shows that there is no alarming amount of old age destitution in this state. The comparative statistics of pauperism in Great Britain and Massachusetts show a strikingly small proportion of old age dependency in the latter Commonwealth, as contrasted with Great Britain. The number of paupers of all ages per one thousand of the population is only 8.5 in Massachusetts, as contrasted with 24.2 in the United Kingdom; the number of paupers 65 years of age and over per one thousand of the

population of the same age, is only 31.7 in Massachusetts, as against 172 in the United Kingdom; and finally the percentage of paupers 65 years of age and over, in the total pauper population, is only 20.3 in Massachusetts, as compared with 35 in the United Kingdom. Fortunately there is in Massachusetts, and presumably in other American states, no such mass of poverty and distress as would call irresistibly for the institution of sweeping pension schemes. An old age pension system of a non-contributory character is a counsel of despair. Great Britain was driven to adopt this policy by the popular demand growing out of intolerable social conditions. This excuse for pension legislation does not exist in any American state. The establishment of a non-contributory pension system in this country would lack even the slight measure of justification which may be urged in defence of the British legislation.

The adoption of any scheme of compulsory insurance, furthermore, appears to be inexpedient in this country at the present time. The practical, constitutional, and ethical objections to such action are weighty. The idea of compulsion is essentially distasteful to Americans. It was the natural dislike of Englishmen for compulsion of any sort which led to the rejection of compulsory insurance plans proposed in that country. The proposal of compulsory insurance is, furthermore, of doubtful constitutionality. It raises the question of the constitutionality of a law obliging wage-earners to set aside a certain percentage of their earnings to provide annuities for themselves in old age. If it could be shown that the effect of the compulsion would be to diminish pauperism and protect the State against the burden of old age dependency, such exercise of

compulsion might conceivably be justified as a preventive measure of poor relief. This consideration, however, seems to be the only one that could be consistently urged in support of the constitutionality of compulsory insurance. There is grave doubt whether this consideration would be held by the courts to justify a compulsory insurance law. Finally, there is the objection on the ground of the paternalizing and enervating influence of compulsion upon character.

In view of these objections it would be unwise to resort to compulsion in dealing with the problem of old age insurance at the present time. It is conceivable, however, that the ultimate solution of this problem may be found in some system of obligatory state insurance. The principle of compulsory education has been adopted and widely extended; the principle of compulsory sanitation has been applied in various directions. Compulsory insurance has been defended as a needful measure of further state interference for the protection of society against the burden of old age pauperism, precisely as compulsory education and sanitation have been adopted to protect society against ignorance and disease. The final solution here suggested, however, lies so far in the future that it would be idle to consider it at this time.

The proper course of action for the immediate future in dealing with the pension problem in American states consists in the development and extension of various agencies of voluntary saving. Whatever is done in this field should be in harmony with the principle that provision for old age should be a charge upon wages to be borne by the wage-earner. The ideal of a living wage, which should govern all that

may be done in this field, demands a wage adequate not only for the support of the average family in reasonable comfort, but also for provision through saving, against all the emergencies of life, sickness, accident, and old age. No measure of old age relief should be adopted which would reduce wages or stand in the way of the future advance of wages to an adequate living basis. This fundamental consideration must be kept steadily in view.

A program in harmony with this consideration may be constructed as follows:

1. The establishment of retirement systems for public employees based on the contributory principle. The expenses of such pension schemes should be divided between the employees and the state, county, city or town. It is logical that the public corporation as an employer of labor should contribute something to the funds out of which allowances to superannuated employees are paid. Such contributions may be regarded as of the nature of extra compensation for long, faithful, and efficient service. That is to say, in addition to payment of current wages the public employer may properly offer a special additional allowance in the form of contributions to retirement funds for workers who remain in the service a certain period of years and reach a specified age, meanwhile contributing from their wages to provide insurance for their old age. Thus far in the United States only a small beginning has been made in the field of pensions for public employees. There is no general legislation on this subject, either national or state. No American city has yet established a general pension system for all employees. The existing provisions for municipal pensions are confined to certain classes of employees, notably policemen, fire-

men, and teachers. The general establishment of retirement systems for the employees of national, state, and local governments would provide old age insurance for one large class of the wage-earning population.[1]

2. The institution of contributory retirement systems by corporations and large employers of labor. Public service corporations especially can safely and profitably undertake this form of welfare enterprise. The recent rapid extension of pension and insurance systems among public service corporations in this country is an important movement toward the solution of the old age pension problem. The Massachusetts Commission obtained information concerning fifty of these schemes, twenty-eight of which are maintained by railway companies and twenty-two by industrial, commercial, or banking establishments. It is unfortunate, however, that the majority of these schemes are wholly non-contributory. Whatever is done in the future in the way of extending retirement systems for employees of corporations should be based upon the contributory principle; the expense should be borne jointly by employer and employed, as in the case of public pension systems. The general establishment of retirement systems for employees of corporations would make provision for another large group of the working class.

3. The extension of the agencies that afford opportunity for old age insurance, including private associations, such as trade unions, beneficiary so-

[1] A bill authorising cities and towns to establish contributory retirement systems for employees, drawn by the Massachusetts Commission on Old Age Pensions, was passed by the General Court during the last session — No. 619, Acts of 1910. Bills providing for the establishment of such systems for employees of the State and the counties were referred to the next General Court with instructions calling for investigation by the Director of the Bureau of Statistics of the cost of operating such systems.

cieties, and the like, and public schemes of voluntary insurance, such as the Canadian and Massachusetts annuity systems. This class of insurance can hardly be expected to reach the great mass of unskilled and low-paid labor, for the reasons already set forth. The higher ranks of skilled labor and of salaried employment can, however, be adequately provided with old age insurance through these agencies. It is desirable that any obstacles which may now lie in the way of the extension of voluntary thrift institutions be removed. To this end the laws governing the operation of fraternal, beneficiary corporations, which in many states now prevent the payment of old age benefits, should be amended so as to enable these societies to provide old age insurance for their members under supervision by the state insurance department. Another measure designed to promote individual saving and strengthen voluntary thrift agencies, which was recommended by the Massachusetts Commission and adopted by the last legislature, is compulsory instruction in thrift in the public schools. This project is not purely theoretical or fanciful, for the subject of thrift is taught effectively in the public schools of European countries, notably in France and Germany.

4. The adoption of preventive measures designed to reduce the volume of old age dependency. Adequate provisions for industrial education will eventually accomplish substantial results toward this end. Measures calculated to diminish the amount of sickness and accident and to provide satisfactory compensation for industrial injuries are also of vital importance in this connection. Whatever can be done to check economic waste from this source, which is now a large factor in producing old age pauperism,

will contribute directly to the solution of the pension problem.

5. The creation of a permanent state commission or commissions of old age insurance. The chief function of such a department would be to act as a bureau of information and assistance to employers and employees and particularly to aid and advise them regarding the establishment of retirement systems. The extension of retirement systems in the field of corporate and public employment could be promoted and directed by such a bureau. The bureau could also render important service by studying the operation of various agencies, public or private, that have been created for dealing with the problem of old age pensions and guiding future legislation on this subject by exact knowledge of facts.

The fundamental object of the policies here outlined is to conserve and strengthen habits of voluntary saving and to create and extend agencies providing for its exercise. There will doubtless remain a certain residuum of low-paid labor which cannot be provided for in respect to old age insurance through measures of this character. It is difficult, indeed, to see how this unfortunate group could be dealt with effectively even under a compulsory insurance system. Irregular employment and insufficient wages place a certain percentage of the working class beyond the reach of any insurance system. The present poor laws are designed, however, to meet precisely this need of provision for a class that cannot be trained to economic competency and self-supporting independence throughout all the period of life. It would be a disastrous policy to institute any system of gratuitous pensions for the particular benefit of this

unfortunate class. The number in the class is not large in the American states. By establishing a pension system for the benefit of the small minority of wage-earners who may possibly need such aid the State would strike a blow at the resources of voluntary thrift, individual responsibility, and family integrity which have enabled the great majority of the population to maintain themselves in self-supporting independence. In the impatient effort to help things forward at a faster pace we should, by attempting an experiment of this kind, immediately retard and ultimately reverse the normal process of social betterment.

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NOTES AND MEMORANDA

COMMERCIAL BANKING AND THE RATE OF INTEREST

THE aim of this paper is to explain the relation of bank discount to the rate of interest. This relation is perhaps closer and more important than is commonly supposed. Commercial banking does more than register the interest rate. It helps to determine that rate. It does this by bringing into the loan market and placing at the disposal of borrowers a supply of "waiting" which would in large part exist any way, but from which, without the institution of banking, would-be borrowers could derive no benefit.

When a man borrows from a bank (giving security and receiving credit on the bank's books) he is getting command over present wealth in return for a contract to repay future wealth. Those who provide him with this present wealth must *wait* before being repaid. In order, therefore, that any one may borrow from a bank some person or persons must provide waiting, must be ready to give present wealth or services for future. The bank itself is only an intermediary. It brings together a supply of waiting but it does not furnish that supply.

The persons who provide the waiting may be divided into two classes: —

(*a*) Those who in return for goods receive checks from borrowers of the banks.

(*b*) Those who have deposited money in the banks.

Both of these classes have claims on the lending banks, claims which, taken all together, cannot be redeemed by the banks except as those who have borrowed make good the claims of the banks on them. When a man has accepted a

check from one who has borrowed of a bank, and has given goods in exchange for this check, he has actually given present wealth in exchange for a mere right to draw on the bank. He may, therefore, so long as he does not exercise this right, be regarded as a lender. If he passes a check for like amount to another, in return for goods, the other becomes the lender, since this other has now the right to draw and has given up for it present wealth. If, instead of passing a check to another, the original payee avails himself of this right to draw, taking money from the bank, then some one who has deposited cash in the bank vaults may be looked upon as the lender, since his money has been taken from the bank and his right to draw from the bank is dependent on the making good of the borrower. Thus, either the original receiver of a deposit right from a borrower, or some one to whom he passes this right, or some depositor whose cash is withdrawn to redeem the check, may be regarded as a lender. Any or all of these persons will lend without any money payment of interest, because any or all of them can at any time get actual wealth by transferring the right to draw to another or can at any time get actual cash at the bank. The convenience of a bank account and the certainty that they can collect whenever they desire to do so and can therefore get wealth from others directly or by drawing a check, take away from their waiting the element of necessity or contract and may, in a broad sense, be regarded as interest. The ultimate creditor is the holder of a deposit right; the possessor, through the bank, of a claim on the original borrower.

There is, then, a great deal of waiting, and transfer of rights to others who continue the function of waiting, which is without money charge simply because no one person *is forced* to wait. It is like the waiting done by a man who has money in his pocket which he intends to spend. It may be a long time before he does spend it but he knows that at any time he may spend it and when it is convenient he will do so. Practically everybody finds it desirable to keep part of his assets in ready cash to use as occasion may require.

The convenience of having the ready cash compensates for the loss of the interest that might be received from various investments and so may be regarded as, itself, a kind of interest. The same holds true of bank deposits subject to demand. Business firms must keep part of their assets in such form as to be able to meet current expenses and occasional emergencies. They must, therefore, keep on hand considerable amounts to their credit in some bank. Even in the absence of banks, money would have to be kept on hand, and there would be much waiting remunerated only by the convenience of having cash at hand when wanted. *Commercial banking has as a function to combine and co-ordinate such sporadic waiting, deposits taking the place of ready cash, so as to put at the disposal of borrowers a sum total of waiting which is fairly constant in amount.*

It may be objected that the foregoing treatment is too concrete to be true. In any individual case of borrowing, it is perhaps not legitimate to pair off each borrower with one or more ultimate lenders, assuming that a particular holder of a deposit is the real lender to a particular borrower. Banks bring together borrowers and lenders in large numbers and there is no logical way to assign two or more into pairs or small groups. But it cannot be denied that if the *total* of loans is taken, the ultimate lenders are the total number of acceptors of checks and depositors of money, both of which classes are depositors in the wide sense, possessors of the right to draw.

We may perhaps consider that on the average each holder of a check, when the reserves are one-fourth of the total deposits, has a claim on the reserves equal to one-fourth of his total claim and a claim on the property of borrowers equal to three-fourths. Then the borrowers are indirectly indebted, through the bank, partly to the receivers of checks from them, and partly to the persons who have deposited the cash used as reserves. Since the receivers of checks are as much holders of rights to draw, that is, of deposits, as are the cash depositors, we may say that all the borrowers are in debt to all the holders of deposits and that the latter are

lenders to the former. When a borrower of a deposit has not transferred it, he may be regarded as indebted to himself, since his right to draw may be regarded as at least partly backed up by his own promise to pay. The group of lenders are to a great extent lenders without direct interest payment because, altho in the aggregate there is brought together a great deal of waiting, no one of the lenders is compelled to wait longer than convenient. The interrelations of banks through a clearing house complicate the relations of borrowers with ultimate lenders but do not run counter to the principles here set forth.

Having seen that a bank is really a machine for concentrating the function of waiting and putting it at the service of short time borrowers, and that this waiting is chiefly done because of convenience, we have next to account for the payment that is made by borrowers. Is it in any sense an interest payment to the ultimate lenders, and if so, in what sense?

It should be pointed out, in the first place, that the payment made to a bank by a borrower must remunerate the bank's service in concentrating this waiting where it has the greatest use. It must cover salaries of bank officials, depreciation of bank property, and a net rent for the use of the bank property, this rent including compensation for the risk of insolvency. In other words, the payment must cover the cost of banking plus interest on banking capital. It would not do this if the demand for loans from banks were very small and if it could be sufficiently met by the funds of those who would be willing to pay this cost in order to have funds kept by the banks. The demand for loans, however, is far in excess of what could be supplied by means so trivial, and is, indeed, sufficient to throw upon the borrowing class the whole burden of the cost of banking service. The payment by borrowers should be regarded, therefore, as a real interest payment in the sense that the ultimate lenders profit by the existence of a place of deposit other than their own vaults, for which they do not have to pay, and profit further by the facility of check payments thus made practicable. If no

money interest is received by the ultimate lenders, the amount paid by borrowers is, in the long run, because of the competition of different banks, measured by the labor cost of rendering the service plus the interest on the cost value of the machinery used in bringing together borrowers and lenders.

Since the bank is but a machine to concentrate a supply of waiting where it is of use, and since the payment for this service, made by borrowers, is payment for the service only and includes no cash interest to lenders but only their convenience of deposit with the right of demand withdrawal, it follows that the market rate of interest on other loans tends to be lowered by this competition. There cannot be two rates of interest on loans of the same class and equal security in the same market, if really competitive conditions exist. What this concentration of loans does, is to supply the market for short time borrowers so largely that they will not pay the rates which otherwise they would have to pay. Those who would lend to them direct must meet the competitive conditions. If a sufficiency of waiting for convenience is to be had, they cannot get real interest much above what a bank would charge as a fee for its service and the use of its machinery. This, of course, applies directly to short time loans, which are the only kind commonly offered by commercial banks. As, however, these loans are renewable, they doubtless tend to lower somewhat the rate of interest charged on long time loans. Finally, it deserves to be mentioned that there is also an indirect tendency toward a lower interest rate, since such an organization of the supply of waiting facilitates not only the full use of capital, but its full use by those best able to employ it productively. Hence social wealth tends to be increased in this way also and interest to be lowered.

Nevertheless, it is not indirectly and merely as an after-result of increasing the social income that the institution of commercial banking lowers to borrowers the rate of interest. Such is the way in which, ordinarily, knowledge giving us increased productivity from the same capital

instrume s would operate. But here, it is to be noted, the increased productivity or service of the capital instrument, money, comes only along with and by virtue of the extension of loans. It is not that larger income finally increases the supply of loans and so lowers the rate of interest, but that this larger social income is possible only by virtue of the increase of loans. Only when the organization of banking makes possible the concentration of sporadic waiting at such slight expense that by a lowering of the interest rate to borrowers increased loans can be placed, is this fuller utilization of the precious metals realized. When the banking system is so organized that it becomes more desirable to have quick business assets in the form of deposits than in the form of cash in the safe, this convenience can *only* be enjoyed on the condition that depositors shall be ultimate lenders. They cannot avail themselves of banking facilities (except in case they should happen to be borrowers themselves) and the whole system therefore exerts a pressure towards increase of loans and lower interest to the borrowing class. Unless this increase of loans enlarged the general income, it of course would not take place. If the gain to the borrower were offset by a loss to the ultimate lender, it would not take place. But the machinery of banking benefits both simultaneously, the one by making possible lower interest, the other by increasing convenience. However, this increase of convenience is conditional upon an addition — tho one able to be recalled at will — to the supply of loans. It is not the saving of capital in the form of coinage which brings after it a lower rate of interest. Rather is it, tho either is absolutely conditional on the other, that the lower interest charge made possible by the banking function enables bank credit, in open competition, to substitute itself for cash, or induces among banks the policy of lending in general only their own credit.

It is worth emphasis that while the increased convenience due to banking facilities may be regarded as interest, yet this convenience, the cost of which is paid by borrowers,

is not so much a necessary condition for bringing the waiting into existence as a means of bringing to bear inducement enough to place existing waiting at the disposal of borrowers. If these lenders through the banks are regarded as having gained because they receive the additional convenience of banking service for waiting most of which they would have done without it, all other lenders must be regarded as losers since they are no longer able to demand interest much above what the bank must charge as a fee for its services in concentrating convenience waiting.

If, however, there is not a sufficiency of this "convenience waiting" to be had to supply the demand for loans at the mere cost of concentration, then the banks will bid against each other, not so much to cut down the charge for the service performed as to get deposits. Hence we are beginning to see direct interest offered on deposits subject to check, either on monthly balances or otherwise. This seems to have been begun by the trust companies, but many conservative commercial banks have felt themselves compelled to do the same. It remains true, however, that the institution of commercial banking lowers the general rate of interest. For a great deal of waiting which would be done anyway by the keeping of large supplies of cash on hand, is thus made to assist borrowers. Instead of keeping the actual cash on hand, business men have every encouragement to make payments by check. Thus, at the same time that these men are as well situated as before, as to readiness for meeting emergencies, the institution of banking has made their sporadic waiting available to borrowers in the form of increased loans. Since much of this increased supply of loans is independent of the rate of interest offered, since it is not held back for high interest but is forthcoming at any interest available, even for no higher interest inducement than the additional safety and convenience offered by banks, it tends to stock the loan market and lower the general interest charge.

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A REVISED INDEX NUMBER FOR MEASURING THE RISE IN PRICES

THE accompanying diagrams (pp. 756–7) disclose the fluctuations in commodity prices as registered by the Gibson index numbers. The Gibson Index [1] is designed to continue the Dun series, which ceases with the number for May, 1907. The diagrams represent (1) the annual averages as furnished by Dun's Review for the years 1890 to 1906 inclusive, continued to 1909 by the Gibson numbers; and (2) beginning with 1907 the Gibson index numbers are plotted monthly. The remarkable rise in prices following the election of President Taft to the Presidency amounts to more than 15 per cent.

The Dun system of computing index numbers makes use of constant ratios for the primary groups. Thus, foods were weighted 50 per cent, clothing 18 per cent, minerals 16 per cent, and other commodities 16 per cent. This weighting was adopted originally as an approximate expression of the so-called Engel's Law. The Dun numbers were based on the prices of some three hundred and fifty articles, more or less, and, inasmuch as the method of compiling within the groups is not known, it was necessary to proceed along a general line of reasoning in order to arrange a formula for an approximate reproduction. Prices may be classified as primary and derivative. The prices of commodities, essentially more primary in their nature, are influenced by many independent causes. Derivative prices result in the vast number of finished products. The prices of derivative products are produced to a considerable extent by the prices of one or more primary commodities. The larger the list of random commodities, the greater is the weighting by a few primary commodities which are often active in many derivative products. I have therefore reduced the number of articles from more than three hundred and fifty to fifty.

[1] Published weekly by Thomas Gibson, Corn Exchange Bank Building, New York City.

The commodities which are common in the lists used by various makers of index numbers are the important products of all nations. The Sauerbeck list furnishes an excellent starting point, if the selection is modified in the manner suggested by Forbes, in order to eliminate some of Sauerbeck's relatively obsolete commodities. The list of Sauerbeck was hence adopted as a basis, and certain modifications suggested by Forbes were introduced. Having selected a list of important commodities, the table of relative prices issued by the U. S. Bureau of Labor has been used. But changes, both eliminations and substitutions, were made. For instance, the following articles used by Sauerbeck were dropped as relatively less important so far as American conditions are concerned: —

Flax	Olive oil
Hemp	Soda crystals
Tin	Nitrate of soda
Tallow	Indigo
Palm oil	

After careful consideration of the various problems involved, such as the importance of the article, independent *vs.* derivative value, continuous quotations, group weighting, and uniformity of grade, the following fifty articles seemed the more desirable ones to include. The list is given in comparison with Sauerbeck's selection.

Sauerbeck		New Gibson	Relative Price, January, 1907
Vegetable Foods			
1. Wheat, English Gazette		1. Wheat, contract price	97.1
2. Wheat, American	S	2. Wheat flour, spring patents	95.1
3. Flour, town made, white		3. Wheat flour, winter patents	86.0
4. Barley, English Gazette		4. Barley, by sample	119.7
5. Oats, English		5. Oats, cash	129.6
6. Maize, English mixed		6. Corn, No. 2, cash	108.4
	A	7. Corn meal, fine yellow	127.8
7. Potatoes, good English		9. Potatoes, Burbank	78.6
8. Rice, Rangoon cargoes	S	8. Rye, No. 2	116.9
16. Sugar, 2 grades		10. Sugar, 89 deg., fair refining	88.8
17. Sugar, Java, f. c.		11. Sugar, 96 deg., centrifugal	90.9
18. Coffee, 2 grades		12. Coffee, Rio, No. 7	54.3
19. Tea, 2 grades		13. Tea, Formosa fine	81.0

Animal Foods		
9. Beef, prime	14. Beef, steers	122.6
10. Beef, middling	15. Beef, fresh native sides	105.7
	A 16. Beef, salt	110.7
11. Mutton, prime	17. Mutton, sheep	129.3
12. Mutton, middling	18. Mutton, dressed	114.1
13. Pork, av. large and small	19. Pork, hogs	149.1
14. Bacon, Waterford	20. Bacon	144.2
	A 21. Hams	133.4
15. Butter, Friesland fine and finest	22. Butter	138.8
		2422.1
Textiles		
27. Cotton, middling uplands	23. Cotton, middling uplands	139.9
28. Cotton, fair Dhollerah	24. Cotton, yarns, cones 10/1	136.8
	A 25. Cotton, yarns, cones 22/1	127.0
29. Flax, 2 grades	Omitted	
30. Hemp, 2 grades	Omitted	
31. Jute, good medium	26. Jute, raw	237.1
32. Wool, 2 grades	27. Wool, Ohio, fine fleece	125.1
33. Wool, English Lincoln	28. Wool, Ohio, medium	115.5
	A 29. Worsted yarns, 2.40 Australians	127.7
34. Silk, Tsatlee	30. Silk, Italian	125.6
	A 31. Silk, Japan filatures	127.3
		1264.0
Minerals		
20. Iron, 2 grades	32. Pig iron	190.3
21. Iron, bars	33. Bar-iron, Pittsburg best refined	132.1
	A 34. Cement	94.9
22. Copper, Chile bars	35. Copper, ingot, Lake	193.5
	A 36. Copper, sheet, hot-rolled	174.8
23. Tin, Straits	Omitted	
24. Lead, English pig	37. Lead, pig	165.4
25. Coal, Wallsend	38. Coal, anthracite	132.7
26. Coal, av. export price	39. Coal, bituminous, East	116.7
	A 40. Coal, bituminous, West	124.4
		1324.8

Other Materials		
35. Hides, 3 grades	41. Hides, green salted	173.6
36. Leather, 2 grades	42. Leather, sole, hemlock B. A.	135.4
37. Tallow	Omitted	
38. Oil, Palm	Omitted	
39. Oil, Olive	Omitted	
	A 43. Oil, Cottonseed	133.0
40. Oil, Linseed	44. Oil, Linseed	90.4
	A 45. Petroleum, crude	173.6
41. Petroleum	46. Petroleum, refined	130.9
42. Soda crystals	Omitted	
43. Nitrate of soda	Omitted	
44. Indigo, Bengal blue	Omitted	
	47. Rubber, Para Island	147.4
45. Timber, 2 grades	48. Timber, spruce	174.2
	A 49. Timber, yellow pine	165.2
	A 50. Paper	85.0
		1408.7

S = substituted.
A = added.

The figures given in the last column illustrate the method of the computation. They indicate the relative prices of the various commodities for January, 1907. The base number 100 for each commodity is the average price of the given commodity for the years 1890–1899 inclusive. Relative prices of some two hundred and fifty articles are to be found in the tables of the U. S. Bureau of Labor. These were planned originally by the late Honorable Carroll D. Wright, and it was his expectation that they would be of value in later years for the computation of index numbers according to such systems as economists found suitable for the nature of the study in hand.

The sums of the relative prices of all foods, textiles, minerals, and other materials are entered by groups. Thus, the total for foods is 2422.1, textiles 1264.0, minerals 1324.8, and other materials 1408.7.

The method of computing the final index number is shown below. The sums of the groups, as above, are entered in the first column. The multipliers for each group are given in the second column. The sum of the weighted products

is the index number, which reproduces the old Dun number within close limits.

		Multipliers	Weighted Product
Foods	2422.1	1.9159	46.4050
Textiles	1264.0	1.6860	21.3010
Minerals	1324.8	1.4987	19.8548
Other	1408.7	1.3488	19.0005
Gibson Index Number			106.5613
Dun's Index Number			107.2640
(For the same month, Jan. 1907.)			
Difference			000.7027

The multipliers are obtained from the formula $\frac{W. \times D.}{C}$ for each grouping, in which W = the Dun weighting, 0.50 for foods, 0.18 for textiles, 0.16 for minerals; and 0.16 for other commodities, D = average 1890–1899, Dun numbers, namely 0.843, and C = number of commodities in the group.

In sum, it would appear that the commodities included are independent to a considerable extent. Several commodities included introduce world causes of price fluctuation. We have in sugar 89', sugar 96', coffee Rio No. 7, tea Formosa, jute, worsted yarns, wool, silk Japan, silk Italian, hides, leather, rubber, and paper, at least fifteen articles which are not moved by causes originating in the United States to an overwhelming extent. In the thirty or more other commodities, many great industries are represented by the principal staples.

The following table shows the weights which have been adopted by the makers of other index numbers for the principal groups which make up the cost of living. Figures of expenditures are given for family budgets contained in the report of the Commissioner of Labor for 1891. How radically the Bureau of Labor Index Number differs from other systems is apparent. Food is given 26 per cent and clothing 29 per cent weights, in comparison with 42 per cent and 18 per cent by Sauerbeck, and 37 per cent and 10 per cent by Bradstreet.

Groups	Average for Incomes under $700	Sauerbeck's Index Number England	Gibson Index Number	Dun Index Number	Norton Sauerbeck Index U. S.	Bradstreet's Selection	Bureau of Labor Index Number	Average for Incomes above $700
Foods	47%	42%	50%	50%	44%	37%	26%	34%
Clothing ..	14	18	18	18	18	10	20	16
Other	39	40	32	32	38	53	45	50

The above method reproduces the Dun index numbers more or less accurately. The Gibson index numbers are more sensitive. The range of fluctuation is slightly wider. I have not computed comparisons for all years. The following comparisons serve to indicate the extremes of the range.

		Gibson	Dun	Difference
1896 (low year)		72.2	74.3	−2.1
1907 (high period)	Jan.	106.6	107.3	−0.7
	Feb.	108.0	107.4	+0.6
	Mar.	109.4	109.9	−0.5

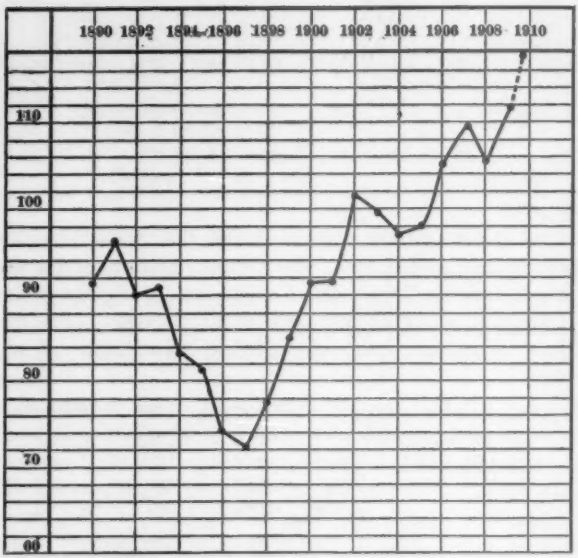
The average differences for the above comparisons are one per cent.

The Dun and Gibson index numbers covering the period appear in the following tables, and the diagrams which follow represent the results graphically.

DUN AND GIBSON INDEX NUMBERS.

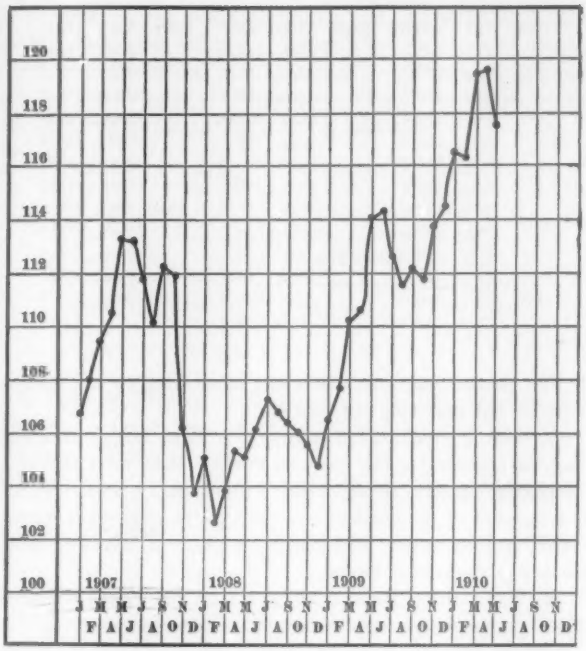
BY YEARS, 1890–1909.

1890.... 91.6	1897.... 72.5	1904.... 97.2
1891.... 96.1	1898.... 77.8	1905.... 98.3
1892.... 90.0	1899.... 85.2	1906.... 105.2
1893.... 90.6	1900.... 91.4	1907.... 109.9
1894.... 83.3	1901.... 91.5	1908.... 105.5
1895.... 81.5	1902.... 101.9	1909.... 111.9
1896.... 74.3	1903.... 99.5	



The diagram is based on the Dun index numbers for the years 1890 to 1906 inclusive, and the Gibson index numbers for 1907 to 1909 inclusive. The last entry is for the first six months of 1910.

The net recovery from the crisis of 1893, measuring from the low year 1897, when the number registered 72.5, to the year 1909, 111.9, is 39.4 points or 54.3%. The advance of the average for the first six months of 1910 is 5% over 1909. The total recovery from 72.5 in 1897 to the high point 120.5 for the week ending April 9, 1910, is 48.0 points or 66.2%. In other words, the purchasing of the 1897 dollar has been reduced to 60 cents.



The diagram based on the Gibson index numbers from January, 1909, to May, 1910, inclusive, shows the violent fall in commodity prices in 1907, and the subsequent advance.

From October, 1907, to February, 1908, the index fell from 112.0 to 102.8, or 8.2%. The fall between October and November, 1907, the months of the Crisis of 1907, was 5%.

The recovery commencing with November, 1908, carried the index from 105.5 to 119.7 for April, 1910, in all 13.5%. The total advance from the low point in February, 1908 (102.8) to 120.5 for the week ending April 9, 1910, was 17.7 points, or 17.2%. This rise probably passes all records for rapidity. It is especially significant, coming as it does on the top of ten years of continually rising prices.

DUN AND GIBSON INDEX NUMBERS.
BY MONTHS, JAN., 1907, TO MAY, 1910.

1907	Jan.	106.6	1908	Mar.	103.9	1909	May	114.1
	Feb.	108.0		Apr.	105.4		June	114.4
	Mar.	109.4		May	105.3		July	112.8
	Apr.	110.6		June	106.2		Aug.	111.4
	May	113.4		July	107.3		Sept.	112.3
	June	113.4		Aug.	106.7		Oct.	111.8
	July	111.8		Sept.	106.3		Nov.	113.8
	Aug.	110.2		Oct.	106.0		Dec.	114.6
	Sept.	112.4		Nov.	105.5	1910	Jan.	116.8
	Oct.	112.0		Dec.	104.7		Feb.	116.6
	Nov.	106.2	1909	Jan.[1]	106.7		Mar.	119.6
	Dec.	103.8		Feb.	107.7		Apr.	119.7
1908	Jan.	105.0		Mar.	110.4		May	117.7
	Feb.	102.8		Apr.	110.7			

The Gibson index numbers are interesting to the economist for the following reasons: —

(1) For a great many years, the Dun index numbers had the approval of the business world. Because a constant weighting for the groups was maintained, irrespective of the number of commodities in the group, they were based on an approximately scientific conception of the important factors of the cost of living.

(2) The Gibson index numbers may be compared with the Dun series which go back four or five decades.

(3) The method of computation provides a way of supplying the index numbers in the future, in case the calculation of the numbers should be discontinued at any time by the present publisher. The statistics of relative prices are usually published by the Bureau of Labor in the March Bulletin. The task of computing the number, once the relative figures are given, is light. The difficulty in such cases of reproducing index numbers generally lies in collecting from scattered sources reliable statistics.

[1] Statistics collected from trade journals were used from January, 1909, to compute relative prices; the Bureau of Labor had published no figures since December, 1908.

(4) The composition of the number, considered in the light of the statistical quality and importance of the articles, is excellent. The composition may be compared with that of the Sauerbeck index by stating that 76 per cent of the articles of Sauerbeck are identical in nature with 68 per cent of the articles of this series. The commodities which are common to the two lists are as follows: —

Wheat	Tea	Cotton	Lead
Flour	Beef	Jute	Coal
Barley	Beef	Wool	Coal
Oats	Mutton	Wool	Hides
Corn	Mutton	Silk	Leather
Potatoes	Pork	Iron	Linseed oil
Sugar	Bacon	Iron	Petroleum
Sugar	Butter	Copper	Timber
Coffee	Cotton		

A cursory reading indicates that the industries represented are basic, and the commodities leading factors in the cost of living.

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METHOD OF TAXING THE UNEARNED INCREMENT

The main contention of Professor Davenport in his article on "The Single Tax in the English Budget," [1] that the single taxers should logically advocate a tax on land rentals rather than on land values, is undoubtedly correct. In their use of phrases they have been influenced by their leader, who proposed "to abolish all taxation save those upon land values." How careless George sometimes was

[1] Quarterly Journal of Economics, February, 1910. Two typographical errors in the article may be noted. On p. 283, line 29, "ten per cent" should read "ten dollars." Lines 2, 3, 4 of page 284 should read "a tax of $47.619 would leave a net unappropriated rental of $2.381, itself a basis for a value of $47.619."

in his use of economic terms may be seen in his claim that the application of the single tax would increase land values! When George spoke of taxing land values he really meant rents.[1] There need be no quarrel here between Professor Davenport and the single taxers.

Tho right in insisting on the rent of land as the proper basis of taxation from the single tax point of view, Professor Davenport falls into some errors. Thus he says, "The state, it is evident, can by its *ad valorem* effort to appropriate the rent get no further than to appropriate one half."[2] On the previous page he gives an example in which $47.619 of a gross rental of $50.00 goes as taxes, while $2.381 remains as net income. Assuming five per cent to be the current rate of net income on investments, the annual taxes would be one hundred per cent of the selling value and the state would get twenty times as much revenue from the land as the owner.

"At the utmost," says Professor Davenport "the *ad valorem* method can extend no further than to impose a one hundred per cent tax upon the market value as it finally adjusts."[3] There is theoretically no reason why the *ad valorem* tax should be limited to one hundred per cent of the market value of the assessed object. A tax of 995 per cent in the assumed case would yield a revenue of $49.75 on a land valuation of $5.00. The net income to the owner would be $.25, or five per cent of $5.00. Of course in the case of such high rates the market value of the land would be very small. The methods of valuation are so imperfect as to make that a bad system which will cause a change of one dollar in the basis of assessment to produce a change several times as great in the taxes.

Professor Davenport is unwarranted in his conclusion that the increment tax in the English budget will not work if he means thereby that it will bring in no revenue. It is true that the burden of the tax will fall on the present owners.

[1] On p. 404 of Progress and Poverty, George speaks of the "taxation of rent or land values."

[2] p. 285.

[3] pp. 283–4.

It is also clear that, assuming a constant rate of interest, the amount of the decline in the selling value will be the sum of the present values of all the future increment taxes so far as they are anticipated. Every pound by which the selling price in land is reduced thus means a pound put at interest for the government treasury. The tax will bring in revenue if there is an increase in (gross) rentals or a decline in the rate of interest.

Since in England sales of land are few, it is one of the unfortunate features of the new law that it will tend to discourage transfers. Professor Davenport, however, exaggerates the influence that the law will have in preventing sales. He says: "In truth, if the Liberal statesmen of England were devising a scheme for guaranteeing the perpetuity of the landed gentry nothing more effective than this could be invented."[1] The tax will furnish a motive for retaining rather than selling land only in proportion (1) as there has been an increment in value, and (2) as there is a prospect that a long time will elapse before the increment tax will have to be paid. If, for example, a man has a piece of land whose value has increased from £1000 to £1250 he would have to pay a tax of £50 if he sells. The land would then net him £1200. By keeping the land he saves the tax for a time and has the use of property which is worth, at least to others, £1250. However, soon after a transfer of the title has taken place there will be little, if any, increment of land value and the tax will have but little influence in preventing sales. The same will be true of all cases in which, irrespective of the time since the last transfer of title, there has been little or no increase in values. Again, when it is plain that a payment of the tax is imminent, as by the approach of death or dissolution of a partnership, there will be little motive for postponing a sale. If the tax were made due at stated intervals it would have no effect whatever in discouraging sales; since its payment would not be dependent upon such transfers.

[1] pp. 290, 291.

While a carrying out of the complete program of the single taxers would require taxation based on rental income, a more moderate application of their principles does not demand this. Indeed there are some unearned increments which such a method would quite fail to reach. Take the case which Professor Davenport mentions, of a man whose land increases in value solely because of a fall in the rate of interest and without any increase in rent. Land (and capital) represents to its owner both a means of income and a store of value. In the given case, the land has come to represent, without any effort on the part of the owner, a greater store of value. Professor Davenport admits the claims of the single taxers concerning unearned increments and yet asks why such a man should be "fined."[1] His position is correct only if taxation should be based on income, irrespective of the value of property which is owned.

In saying that "these tax burdens must always stand as a vista of endless prospect, and must themselves be effective to depress each new appraisal,"[2] Professor Davenport apparently forgets that the entire burden of the tax is suffered by the present landowner in the lowering of the selling value of his property. In hinting that "the death duties may be so feared as to prevent any increase in valuation" he falls into the same fallacy as that employed in proving that Achilles could never overtake the tortoise. The tax would reduce selling value, as has already been said, by an amount equal to the sum of the present values of the indefinite number of increment taxes which are foreseen; but the sum of an infinite series may itself be quite small. Moreover, the fact that land owners and land buyers may not expect to appropriate all the increase in values is no reason why they will not appropriate all the law allows. Eighty per cent of a loaf is better than no bread.

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[1] p. 290. [2] p. 291.

THE FRENCH OLD AGE INSURANCE LAW OF 1910

For several reasons the latest French act dealing with old age is one of the most notable measures of social legislation enacted in many years. It is not an outright pension scheme, like those of England and Australia. As an insurance scheme, it had to be either compulsory or voluntary. And tho France, unlike her neighbor Germany, has traditionally stood for permissive social measures, she has now chosen to be the first important country to imitate the compulsory old age insurance system of Germany.

If we except the miners' insurance law, the French act has no antecedents like the Prussian acts of 1845 and 1849, and the Bavarian act of 1869, and cognate German acts. Instead, the *Caisse nationale des retraites pour la vieillesse*, established 1850, and still in operation, has invited the people to provide for their old age in a state bank, and has weighted its invitation with special inducements. The mutual aid societies have extended a similar invitation. But with their honorary memberships, their long history of state guarantees and state subsidies, resting on no broadly conceived policy of either right or expediency, and their costly operation, they have attained a membership of only two million persons; and of these only a part are insured, inadequately, for old age.[1] Finally, in 1905, a special law was passed granting to incapacitated persons seventy years old, and to incurably infirm indigent persons under this age, an annual pension of 60–240 francs. In twelve months after this law went into force, 400,000 people in a country reputed for its thrift, were recipients of this little pension.

That France should have followed the German law is doubly significant when the experience of Belgium is viewed. For Belgium, like France, had her Old Age Pensions Bank, her mutual aid societies, even her law for the pension relief

[1] See the incisive criticism by A. Weber, Â travers la mutualité, Paris, 1908.

of the indigent old. More still, she had instituted a voluntary subsidized state insurance scheme. But tho a decade's experience of this last attempted solution for the old age problem lay before her, France chose to pursue a compulsory course.

Certainly the act of 1910, whatever else its inspiration, spells the inadequacy of previous measures. It confesses the abandonment of that policy of Latin countries described by Cheysson as "la prévoyance libre pour les hommes debout, l'assistance pour les hommes tombés." It admits, for a middle class, which is neither down nor yet securely on its feet, and which cannot, or will not, provide for its future, a third principle, compulsory insurance.

The vote upon the Act signed April 5 was neither hasty nor doubtful. In this the contrast with Germany is interesting. The Emperor's message, outlining a national policy of social insurance, was read in 1881. The bill for old age insurance, introduced in 1888, was passed in 1889 by a vote of 185 to 165. A French commission considered an old age insurance plan as early as 1872; another, appointed in 1890, considered ten bills; and in the twenty years since that date, agitation and discussion have been rife. In 1906, the Chamber, by a great majority, succeeded in passing a radical bill. And after this bill had been reported, in 1909, in amended form, by a Senate commission, it was finally enacted by a vote in the Senate of 280 to 3, and in the Chamber, of 560 to 4.

The act[1] prescribes insurance for practically the entire working population, male and female, rural and urban, receiving in wages or salary less than 3,000 francs a year. It excludes miners and some other workmen already specially cared for. It does not, like the English act, exclude the man who "has habitually failed to work according to his ability, opportunity and need," but it automatically penalizes him by conditioning the pension upon the regular payment of premiums for thirty years. Or, if premiums are paid for less than thirty but more than fifteen years,

[1] The text is in the Journal officiel, April 6, 1910, pp. 2998–3003.

the amount of the pension is more than proportionately reduced. Besides the 10,500,000 people, who, it is officially estimated,[1] will fall under the compulsory provision, 6,000,000 others may voluntarily insure. These include independent workmen, small employers, peasant proprietors, and other persons, not wage-earners, of low income; also employees receiving over 3,000 francs but under 5,000 francs a year.

In its scheme of contributions the act differs little from its German model. Both require premiums from employer and employee, both provide equal supplements — France, 60 francs, Germany, 50 marks — from state funds. Both throw upon the employer the responsibility for the insurance, and require him, from his own resources, to duplicate the contributions he deducts on pay-days from workmen's wages. But while in Germany there are five grades of premiums, varying with the five wage-groups in which insurable workmen fall, there are in France three groups, depending upon age or sex. Persons under eighteen years of age pay 4.50 francs a year, women 6 francs, men 9 francs, or respectively 1½, 2, and 3 centimes per working day. Simplicity is here secured, but the burden and benefit of insurance are not related with the worker's earning power. In both countries the workman may, by an augmented premium, qualify for a higher pension, but he does not obligate the employer to pay more than the statutory sum. Where the insurance is voluntary, the state, since there is no employer, adds one-third of the workman's yearly contribution, but not over 6 francs; and still pays the annual supplement to the pension itself. The voluntary provisions of the German law have never attracted many insurers; greater success probably will reward the more generous French law.

In one important respect the French act is notably bolder than the German. Tho the Deputies' bill of 1906, calling for a pension at the age of sixty, did not pass the Senate, the compromise act is still fairly radical. The pensionable

[1] Journal officiel, March 31, 1910, p. 1787.

age is sixty-five, or, at the option of the insured, fifty-five; but in the latter case, both the pension and the state grant are proportionally decreased. In Germany, however, the age was fixed at seventy years, and a twenty years' history has not fulfilled the predictions for its reduction. The difference of five years involves a much heavier demand upon the French Treasury than upon the German.

In another important respect, the French plan, tho unlike any of the pension systems or the voluntary insurance of Belgium, is similar to the German plan. Article 9 provides an anticipated pension for "insured persons who, not of their own will, incur serious injury or premature infirmity involving entire and permanent incapacity," so far as their disabilities do not come under the accident compensation law of 1898. That law covered agricultural accidents only when connected with the use of "moteurs inanimés." The new law includes not only other agricultural accidents, but also the entire field of non-occupational accidents, and infirmity from whatever cause. Even in this matter, however, the German law is more far-reaching. For it requires, not that the invalidity be permanent, but that it exceed in duration six months. It requires, not that it be absolute, or entire, but that it render the insured incapable of earning more than one-third of his usual income; in practise this means earning power within one's own, or a closely similar, occupation. Therefore the French law will hardly develop into such an invalidity law as twenty years have shown the German to be. For on January 1, 1909, there were in Germany 108,637 old age pensioners as against eight times as many, or 868,086 invalidity pensioners. And while only one-fourth of those who have received old age pensions since the act went into force are still living to receive them, of recipients of invalidity pensions one-half are still living.[1]

The amount of the French pension depends on the rate of the premium and on the number of premiums paid. At

[1] Amtliche Nachrichten des Reichs-Versicherungsamts, January 15, 1910, pp. 224, 225.

least thirty annual payments must be made to secure the pension and grant at sixty-five. A person insured at the age of twelve would receive at sixty-five a pension of 414 francs; one insured at fifteen, 382 francs; at twenty, 330 francs.[1] The last figure is about equivalent to the British maximum of £13 and slightly exceeds the German maximum of 230 marks. The recipient of the pension, if in unusual distress, is still eligible to the pension of the act of 1905. The maximum invalidity pension is 360 francs; in Germany, about 450 marks. Tho the German old age pension is inferior to the French, it must not be forgotten that insured Germans who become invalids before the completion of their seventieth year, continue to receive, instead of the age pension, the invalidity pension which, as stated, may be much higher.

France has mildly anticipated a measure with which the Reichstag, in a bolder form, is still wrestling, namely, the provision for widows and surviving children. So far as death is due to industrial accident, both countries have already made provision. The new French law declares that if the deceased has paid three-fifths of his contributions and has not been receiving a pension, then his children under sixteen years may receive 50 francs a month for from four to six months, according to their number; or, if there are no children, his widow may receive 50 francs a month for three months. The same right obtains for the wife when the exclusive fault of the husband is the ground for a divorce granted. But further, while the amount deducted from wages is normally alienated, the payments of the insured may constitute a "capital réservé," and may, upon his death, be paid, according to his will, presumably to his surviving family. Similarly, he may devote the payments from his wages to the construction or purchase, under restrictions, of a workman's cheap dwelling. In these

[1] These figures are taken from the address of the Minister of Labor, M. Viviani, in the Chamber, on March 30, reproduced in the Journal officiel, March 31, 1910, p. 1799. They are based on the mortality of persons insured in the Caisse nationale des retraites. If the mortality of persons insured under the new Act should be greater, as seems likely, the pensions would probably be higher than the figures of the text.

cases of course, the pension, based wholly upon employers' payments and the state grant, is proportionally smaller.

It is, however, in administration that the French and German systems most diverge. Friends and opponents of the German plan have often criticized its bureaucratic organization, its mechanical procedure, its inelasticity. Besides the nine railroad and nine insurance institutions, there are thirty-one separate institutions in the thirty-one territorial districts into which, for the purposes of the scheme, Germany is divided. Public officials and representatives of both employed and employers together manage these institutions, but the part of the employed is small. Tho some equalization of burden among the various institutions was secured by the amendment of 1899, each institution still invests its own funds.

The French plan follows the German only in establishing a card and stamp system as the immediate means of insurance. For, obnoxious tho this system has often been found in Germany, no substitute has been devised. The workman carries an identification card, stating the amount of contributions in his name, and a stamp card, renewed annually, on which the employer currently enters adhesive stamps to the amount of both employer's and workman's contributions. But here the differences begin. The investment function in France is centralized, inasmuch as all funds collected must be invested, as prescribed in the law, by the *Caisse des dépôts et consignations*, an organ which has long been investing the funds of the *Caisse nationale des retraites*. With this responsible function securely bestowed, the simpler function of administering the accounts of members is accomplished, not by one institution in which the workman must insure, but by many, public and private, among which he may elect. Mainly these already exist. They are (1) the *Caisse nationale des retraites pour la vieillesse;* (2) the mutual aid societies[1]; (3) departmental or

[1] This and other provisions in the law, aiming to maintain the mutual aid societies, call to mind the alarm which, in England, the advocates of the friendly societies have felt since the Pensions Act went into force. The independent character and ripe

regional pension institutions, analogous to those of Germany, to be established by decree; (4) employers' pension funds, such as already exist in numbers; (5) private (employers') guarantee associations; and (6), trade unions' superannuation benefit funds. The operations of the last five in the matter of pensions will be controlled by the Minister of Finance. Annually, each institution gives insured persons a statement of payments made and of their eventual value for the pension. In some circumstances the insured may directly pay their contributions to these organizations, the employer continuing to pay his in stamps.

Here is an individualistic tinge, in which, for the moment, the French origin of the law stands forth. How far, despite its large utilization of existing machinery, it may prove more wasteful and costly than the less diversified German system cannot be predicted. But it may be borne in mind that the multiform system of sickness clubs in Germany has been drifting to greater simplicity, and that already greater centralization is sought by legislation; also that, in Hungary, not only have the old types of sickness club, counterparts of the German, been abolished by the law of 1907, because costly, but the local sickness and accident insurance institutions have actually been merged.

Regarding the transitional measures for the insurance of persons older than thirty-five at the time the act goes into operation, a word in passing is pertinent. Such persons cannot pay contributions for thirty years. If under sixty-five, they must however insure as soon as the law goes into effect and must prove that, for at least three years previous to that date, they have belonged to the insurable classes. If they are between thirty-five and forty-five years of age, the annual State supplement of 60 francs is not diminished. If they are forty-six years old, the grant is raised to 62 francs, and thereafter the rate is increased two francs for

development of these associations make them more deserving of salvation than the French societies. Presumably inspired in part by the French act, the Spectator (May 21, 1910, p. 835) urges for England a compulsory sickness and old age insurance system, allowing the workman, at his preference, to insure through a friendly society.

every later year of life at which insurance begins. Hence a person aged between sixty-three and sixty-four would, after sixty-five, receive 98 francs a year from the State; one between sixty-four and sixty-five, 100 francs. Further, persons older than sixty-five, unable therefore to insure at all, fall under the provisions of the act of 1905, hitherto applicable only to persons aged seventy; and they receive such a pension, exceeding 100 francs, but less than 240 francs, as comports with their need.

It is not essential here to examine the organization of the Conseil supérieur, which, like the Reichs-Versicherungsamt of Germany, supervises the operation of the law; or the nature of the matters left for adjustment, in the face of some criticism, to administrative regulation. The law will go into force in 1911, hardly before the autumn. What will be its ultimate effect upon the population only the years will tell. That it will secure substantial incomes for the lean years of some millions of persons who have not been induced by voluntary institutions to provide for their future, is certain. That it will accomplish this without inviting thriftlessness in the decade before the receipt of a pension, as the English and Danish laws do, is scarcely doubtful.

ROBERT F. FOERSTER.

HARVARD UNIVERSITY.

BOOKS RECEIVED

American Sociological Society. Papers and Proceedings. Fourth Annual Meeting, December, 1909. Chicago: University of Chicago Press. 1910. pp. 216. $1.60. (Volume IV.)

Arias, G. Le Forme Moderne della Impresa Industriale e Commerciale. Rome. 1910. pp. 30. (Extracted from the GIORNALE DEGLI ECONOMISTI.)

Association de Défense des Classes Moyennes. L'Impôt sur le Revenu. Le Projet Caillaux devant la Chambre. Paris: F. Alcan. 1910. pp. 680. 10 *fr.*

Balch, E. G. Our Slavic Fellow Citizens. New York: Charities Publication Committee. 1910. pp. 536. $2.50.

Beard, C. A. American Government and Politics. New York: Macmillan. 1910. pp. 772. $2.10.

Bochard, A. L'Évolution de la Fortune de l'État. Paris: Giard & Brière. 1910. pp. 333. 6 *fr.*

Brown, H. D. Civil-Service Retirement. Great Britain and New Zealand. Washington: Government Printing Office. 1910. pp. 264.

Crosby, O. T. Strikes. When to Strike. How to Strike. New York: G. P. Putnam's Sons. 1910. pp. 201. $1.25. (A book of suggestion for the buyers and sellers of labour.)

Dawson, W. H. The Vagrancy Problem. London: P. S. King. 1910. pp. 270. 5*s.*

Downey, E. H. History of Labor Legislation in Iowa. Iowa City: State Historical Society of Iowa. 1910. (Iowa Economic History Series.)

Du Bois, W. E. B., editor. Efforts for Social Betterment Among Negro Americans. Atlanta: Atlanta University Press. 1909. pp. 136. $ .75. (The Atlanta University Publications, No. 14.)

Durkheim, E. L'Année Sociologique. Tome XI (1906–1909). Paris: F. Alcan. 1910. pp. 823. 15 *fr.*

Eastman, C. Work-Accidents and the Law. New York: Charities Publication Committee. 1910. pp. 345. $1.50. (The Pittsburgh Survey.)

Eliot, C. W. The Future of Trades-Unionism and Capitalism in a Democracy. New York: G. P. Putnam's Sons. 1910. pp. 128. $1.00.

Evans, H. Sir Randal Cremer. His Life and Work. Boston: Ginn & Co. 1910. pp. 356. (Published for the International School of Peace.)

Ficklen, J. R. History of Reconstruction in Louisiana (Through 1868). Baltimore: Johns Hopkins Press. 1910. pp. 234.

Grotewold, C. Die Zuckerindustrie. Ihr Rohmaterial, ihre Technik und ihre volkswirtschaftliche Bedeutung. Stuttgart: Ernst Heinrich Moritz. 1907. pp. 178. (Bibliotek der Technik und Industrien. Band 6.)

Jenks, J. W. Governmental Action for Social Progress. New York: Macmillan. 1910. pp. 226. $1.00. (American Social Progress Series.)

Jevons, H. S. The Sun's Heat and Trade Activity. London: P. S. King. 1910. pp. 35. 1*s*. (Extracted from the CONTEMPORARY REVIEW for August, 1909.)

Johnston, A. History of American Politics. New York: Henry Holt. 1910. pp. 445. (Revised and enlarged by W. M. Sloane; continued by W. M. Daniels.)

Kautsky, K. Le Chemin du Pouvoir. Paris: Giard & Brière. 1910. pp. 176. 2 *fr*.

Kautsky, K. The Class Struggle. (Erfurt Program.) Chicago: Charles H. Kerr. 1910. pp. 217.

Lafargue, P. The Evolution of Property from Savagery to Civilization. Chicago: Charles H. Kerr. 1910. pp. 160.

Liefmann, R. Kartelle und Trusts, und die Weiterbildung der Volkswirtschaftlichen Organisation. Stuttgart: Ernst Heinrich Moritz. 1910. pp. 210. 2.5 *M*. (Bibliotek der Rechts u. Staatskunde. Band 12. Zweite Auflage.)

Lough, W. H. Corporation Finance. New York: Alexander Hamilton Institute. 1910. pp. 480. (Modern Business, Vol. IV.)

MacLean, A. M. Wage-Earning Women. New York: Macmillan. 1910. pp. 202. $1.25. (The Citizen's Library.)

Marx, K. The Poverty of Philosophy. Chicago: Charles H. Kerr. 1910. pp. 227.

Odum, H. W. Social and Mental Traits of the Negro. New York: Columbia University. 1910. pp. 302. $2.00. (Columbia University Studies, Vol. XXXVII, No. 3.)

Ricci, U. Il Capitale. Saggio di Economia Teoretica. Torino: Fratelli Bocca. 1910. pp. 264. 6 *l*.

Seager, H. R. Social Insurance. A Program of Social Reform. New York: Macmillan. 1910. pp. 175. $1.00. (American Social Progress Series.)

Vogelstein, T. Organisationsformen der Eisenindustrie u. Textilindustrie in England u. Amerika. Leipzig: Duncker & Humblot. 1910. pp. 277. *M*. 6.50.

Weyermann, M. Zur Geschichte Immobiliarkreditwesens in Preussen mit besonderer Nutzanwendung auf die Theorie der Bodenverschuldung. Karlsruhe: G. Braun. 1910. pp. 239. *M*. 4.80.

White, W. A. The Old Order Changeth. New York: Macmillan. 1910. pp. 266. $1.25.

Wolff, H. W. People's Banks. A Record of Social and Economic Success. 3d Edition. London: P. S. King. 1910. pp. 587. 6*s*.

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